

**REGION 1****Hot Issues****Motion for Time to Reconsider Maine Water Quality Standards**

- On August 10, 2017, EPA filed a motion with the federal district court in Maine informing the court that it has decided to reconsider the EPA's decisions on Maine's water quality standards that the state has challenged.
- EPA also informed the court that the Agency has not yet determined the outcome of such reconsideration.
- EPA's motion was in response to two petitions for reconsideration that the Agency received from the State of Maine and three permitted dischargers in Maine.
- EPA requested the court to stay the litigation challenging EPA's decisions for an additional 120 days; EPA had previously received a 90 day stay of the litigation to decide whether the Agency would reconsider its decisions.
- The State of Maine did not oppose EPA's motion; the two Maine tribes that are parties in the case have not yet decided whether they will oppose the motion.

**Upcoming Public Events****FEMA Functional Exercise - Patriot Response**

- FEMA will be hosting two-day functional exercise on August 22 and 23, designed to validate the ability of FEMA Region I and their Federal partners to coordinate response operations and to perform essential functions and supporting tasks following a hurricane impacting states and tribes in Region I.
- EPA is one of 32 federal agencies in the National Response Framework, is the lead agency for Oil and Hazardous Materials Response, and is the support agency for several other functions including Public Works and Engineering. EPA Region I will be participating in the exercise as both a player and controller.

**Brownfields 101 information session**

- On August 22, Region 1 will be conducting a Brownfields 101 information session at Science & Technology Magnet High School in New London, CT.

**FDA Northeast Region Annual Food Protection Seminar**

- On August 24, Region 1 will provide a panel presentation on *Food Donation Safety Policies and Practices* at the US Food and Drug Administration Northeast Region Annual Food Protection Seminar in South Burlington, VT.

**Composting Stakeholder Work Group**

- On August 30, Region 1 will participate in a NH Composting Stakeholder workgroup meeting to assist the New Hampshire Department of Environmental Services with identifying and addressing concerns about composting practices and regulations in New Hampshire. This is a collaborative effort with the Northeast Resource Recovery Association.

**Upcoming Major Decisions**

None this week.

**Highlights from last week**

None this week.

**REGION 2****Hot Topics**

**Lawsuit Filed by New York State Against EPA:** On August 17, 2017, New York State filed a lawsuit against EPA in the U.S. District Court for the Eastern District of New York challenging EPA's decision to designate a permanent open water disposal site in eastern Long Island Sound for the disposal of dredged sediments.

**Upcoming Events**

**Acting RA Visit to Puerto Rico:** Catherine McCabe will be visiting Puerto Rico during the week of August 21 to meet with the secretaries and other representatives of the Puerto Rico Department of Natural Resources/ Environmental Quality Board, the Puerto Rico Department of Agriculture, and the Puerto Rico Aqueduct and Sewer Authority. A meeting with the Governor is also tentatively scheduled, to focus on issues pertaining to the island's solid waste landfills.

**Site Tour with Congressman Frelinghuysen:** On September 19, 2017, Acting RA McCabe and Acting DRA Mugdan will accompany Congressman Rodney Frelinghuysen on his annual tour of Superfund sites in his district.

## REGION 3

### Hot Issues

#### **Region 3 Approves Our Oldest State Implementation Plan (SIP) Revision: Pennsylvania's Control Measures for the 1997 Ozone Standard**

On July 7, 2017 (82 FR 31547), EPA took direct final action to approve revisions to the Commonwealth of Pennsylvania SIP pertaining to the requirements for reasonably available control technology (RACT) controls for certain sources of volatile organic compounds (VOCs) under the 1997 ozone national ambient air quality standard (NAAQS). This SIP revision, submitted on September 25, 2006, includes (1) Pennsylvania's certification that previously adopted RACT controls in Pennsylvania's SIP that were approved by EPA under the 1-hour ozone NAAQS are based on the currently available technically and economically feasible controls, and that they continue to represent RACT for the 1997 ozone NAAQS and (2) a negative declaration that certain categories of sources do not exist in Pennsylvania. The public comment period closed on August 7, 2017, and EPA received no comments. EPA's approval is effective October 5, 2017. This SIP revision does not address Pennsylvania's May 2016 VOC and nitrogen oxides (NO<sub>x</sub>) RACT rule, "Additional RACT Requirements for Major Sources of NO<sub>x</sub> and VOCs," also known as RACT II. EPA will take separate action on RACT II.

#### **Groups Give Notice to EPA on Particulate Matter Plans**

On August 3, 2017, the Center for Biological Diversity, the Center for Environmental Health, and Clean Air Council gave EPA notice that they intend to sue the Agency regarding state implementation plan (SIP) requirements for the 2012 fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS). This notice of intent to sue is directed at eight PM<sub>2.5</sub> nonattainment areas nationwide, including three in Region III, Delaware County, Lebanon County, and Allegheny County, all in Pennsylvania. These areas were required to submit SIP revisions for the 2012 PM<sub>2.5</sub> NAAQS, including base year emissions inventories, modeled attainment demonstrations, and updates to nonattainment permitting requirements, by October 15, 2016. The enviros allege that EPA had six months from the due date to either find the states' SIP revisions complete, or issue findings of failure to submit. If EPA issues findings, states would have one year to submit the required element or face sanctions, such as loss of highway funding or more stringent permitting requirements.

#### **Plaintiffs Respond to EPA Proposal to Resolve Litigation in Chesapeake Bay TMDL Challenge; Plaintiffs Will Serve EPA Before August 29, 2017: *James River Dischargers Coalition et al v. EPA et al.*, Civil No. 3-16-00089 (W.D. Va)**

On August 14, 2017, Plaintiffs provided a preliminary response to EPA's recent proposal to resolve the above captioned case. The James River Dischargers Coalition, the Virginia Association of Municipal Wastewater Agencies (VAMWA) and the Virginia Manufacturers Association (Plaintiffs) filed the complaint on December 23, 2016 challenging EPA's establishment of the 2010 Chesapeake Bay TMDL, specifically the nitrogen and phosphorus wasteload allocations for the James River.

Plaintiffs also informed EPA that they will be serving EPA with the summons by no later than August 29, 2017, which effectively starts the litigation. Plaintiffs did signal they would consider staying the litigation for further settlement discussions. Unless stayed, EPA will have an obligation to respond to the Complaint within 60 days. EPA, the Virginia Department of Environmental Quality (VaDEQ) and Plaintiffs have had several discussions to resolve the litigation. VaDEQ is supportive of EPA's efforts. EPA established the final Bay TMDL on December 29, 2010 pursuant to Section 303(d) of the Clean Water Act ("CWA") to address nitrogen, phosphorus, and sediment pollution as part of the state and federal efforts to restore the Chesapeake Bay. VAMWA was an Intervenor-Defendant supporting the Bay TMDL in the *American Farm Bureau Federation et al v. EPA et al*, 792 F.3d 281 (2015) (*cert. den.*

2/29/16). That decision upheld EPA's authority and record in establishing the Bay TMDL as the primary plan to restore the Chesapeake Bay water quality.

### **Upcoming Public Events**

#### **Region 3 State Secretaries Meeting**

Region 3 State Secretaries Meeting is scheduled for Thursday, August 24 to be held in the regional office. All State Secretaries are planning to attend.

### **Past Events**

#### **Conowingo Dam Summit & Press Conference**

Acting Regional Administrator Cecil Rodrigues and Nick Dipasquale, Director of the Chesapeake Bay Program Office participated in the Conowingo Dam Summit & Press Conference held in Darlington, Maryland on August 8, and hosted by Governor Hogan.

#### **Officials Tour Urban Waters Sites in Baltimore**

Acting Regional Administrator Cecil Rodrigues and Acting Water Protection Division Director Dominique Lueckenhoff joined HQ officials and other federal and state partners for a tour of Urban Waters sites in Baltimore on Thursday, Aug. 17. The all-day tour was arranged by the Office of Water to highlight the activities and successes of the Baltimore Urban Waters Federal Partnership. Among the EPA HQ officials on the tour were Sarah Greenwalt, Senior Advisor to the Administrator for Water and Cross-Cutting Issues, and Lee Forsgren, Jr., Office of Water Deputy Assistant Administrator.

**REGION 4****Hot Issues****Chemical Release to Cape Fear River (Chemours Facility) – ENFORCEMENT CONFIDENTIAL**

**Key Message:** Chemours (formerly DuPont) manufactures the chemical GenX, a processing aid that enables the production of high-performance fluoropolymers without the use of perfluorooctanoic acid (PFOA). The free acid GenX precursor chemical has been found in the Wilmington, NC, drinking water system.

- **(Update)** Today Region 4 provided an update to the Office of Enforcement of Compliance Assurance (OECA), the Office of Chemical Safety and Pollution Prevention, (OCSPP) and EPA Regions 2, 3 and 5 via conference call regarding the June 28-29, 2017, TSCA Inspection at the Chemours facility. Based on our initial review of information obtained in the investigation, EPA Region 4 has requested additional information from Chemours.
- **(Update)** On August 22, 2017, Region 4 will participate in a meeting with ORD and NC DEQ and North Carolina Department of Health. The discussion will center around recent analytical results of other compounds (other than GenX) found in the Cape Fear River. Other EPA program offices have been invited to attend.
- **(Update)** The North Carolina House of Representatives announced it will conduct an investigation into the discharge of GenX into the Cape Fear River.

**Ensystex, II Imports Matter – ENFORCEMENT CONFIDENTIAL**

**Key Message:** EPA Region 4 recommended a Stop Sale, Use or Removal Order (SSURO) to allow Ensystex, II to relabel a Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) noncompliant imports shipment and achieve compliance. On July 19, 2017, Region 4 submitted a request to the OECA to expedite a decision to proceed with the issuance of the SSURO. On July 27, 2017, Region 4 issued a SSURO to Ensystex II.

- **(Update)** As of August 15, 2017, Ensystex, II completed the relabeling of the shipment; however, the shipment was still not in compliance. A follow-up inspection is scheduled for August 17, 2017. If compliance is verified, Region 4 will proceed with vacating the SSURO.

**Mississippi Phosphates Corporation Site (Pascagoula, MS)**

**Key Message:** Recent significant stability issues presented at the site have necessitated a move toward a closure approach for the East Gypstack.

- On August 15, 2017, the Environmental Response Team (ERT) submitted a memo detailing the significant erosion presented at the site. As a result, a recommendation was made to take Ponds 3 and 4 out of service immediately and permanently to avert similar breaches and/or catastrophic failure.
- Region 4 participated in discussions with HQ (OSRTI, OEM and Acting AA Breen) about a path forward to expedite closure of the East Gypstack, which will eliminate the potential for a catastrophic failure. The cost of this work (approximately \$40M plus water treatment cost) will far exceed the Region 4 Removal Program budget, so funding options were also discussed.
- Finalizing the site on the NPL (it was proposed on August 3, 2017 and is currently in a 60-day comment period) is important so that Remedial Action funds can be accessed.
- Region 4 and HQs acknowledged that closing the East Gypstack will most likely eliminate any potential re-use of the site as a fertilizer production facility.
- A second emergency bypass was completed on August 9, 2017. The total water discharged was 33.5 million gallons. As of August 11, 2017, no acute adverse effects (such as wildlife impacts) have been noted.
- The combined mechanical and in-situ treatment systems have treated approximately 7.32 million gallons of site-wide water from August 5-11, 2017.

- Sinkhole repair at the West Stack due to Tropical Storm Cindy impacts commenced on August 7, 2017. The repairs are anticipated to take approximately one month to complete.

**Paducah Gaseous Diffusion Plant (Paducah, KY)**

Key Message: C-400 Vapor Intrusion Addendum approved by both EPA and KY.

- The Vapor Intrusion Work Plan will assess potential exposures of current Deactivation workers to vapors from historical TCE releases in and around the C-400 Building.
- DOE declined to provide EPA with a specific schedule of work, but forecasts submittal of the Report Addendum in mid-to late January of 2018.

**Upcoming Public Events**

None this week

**Upcoming Major Decisions**

None this week

**Last Week Highlights****Mississippi Phosphates Corporation Site (Pascagoula, MS)**

Key Message: EPA hosted an NPL Listing Public Meeting for the Site in Pascagoula, MS on August 15, 2017.

- The meeting was held at the Pascagoula Senior Center from 6:00- 8:00 pm. Additional participants included Chris Wells with MDEQ, Steps Coalition members, and Cherokee concerned citizens. There were approximately 70 people in attendance making this the most well-attended MPC Site meeting to date.
- Members of two local media outlets were present (WLOX-TV and WXXV-TV) to cover the meeting and conduct interviews. Portions of the meeting were recorded and posted, via Facebook Live, on the Steps Coalition's Facebook Page.
- Staff shared a presentation on the Site, discussed current site operations and the NPL process, and provided an overview of Agency resources that support the Superfund Program.
- Most of the concerns raised during the Q&A dealt with health impacts from alleged exposure to contaminants from the MPC Site and other currently operating facilities near the Cherokee community. There were also several questions raised about the radionuclide issue in the gypsum stacks.

**REGION 5****Hot Issues****Elevated Lead Levels in Drinking Water in Galesburg, Illinois**

Key Message: EPA is working closely with the city and Illinois EPA to address the elevated levels, and is considering options.

As part of an Office of Research and Development (ORD) project to develop a protocol for finding lead service lines, the drinking water of 12 homes in Galesburg was sampled and analyzed. EPA received the results for 10 of the 12 homes on August 10-11, 2017. Elevated levels of lead were found in the samples. At our direction, EPA's contractor also sent the results to the city and Illinois EPA on August 11, 2017. The city immediately reached out to residents whose homes were sampled to inform them of their results and to make sure that they are using point-of-use filters certified to remove lead. Lead service line replacement will be completed by the city at all 12 homes by the end of the month. Region 5 has coordinated closely with IEPA at all levels. We are jointly considering next steps.

**Press Release on Friday about Asian Carp**

Key Message: The Asian Carp Coordinating Committee, led by the Fish and Wildlife Service, will release a statement about the Carp Found Above the Barrier.

One Asian Carp was caught above the Army Corp of Engineers electric fish barrier in June 2017. A statement from the Asian Carp Coordinating Committee is inconclusive about the way the carp got past the barrier, but does note the 4 year old fish spent considerable time above the barrier. There will likely be significant press interest as the barrier is a primary method of preventing the spread of asian carp to the Great Lakes.

**EPA Conveys Plant Operation/staffing Concerns to City of Flint and Michigan Department of Environmental Quality**

Key Message: On August 10, 2017, EPA sent a letter to the respondents of the Flint SDWA 1431 Emergency Order to confirm compliance with staffing requirements at the public water system (PWS).

On July 31, 2017, EPA received an incident report from MDEQ highlighting that due to a lack of staff at the Flint PWS, the chlorine tote used to feed chlorine disinfectant into the system ran out of chlorine on July 26, 2017. This report also made it clear that at least one worker at the PWS has not received a day off during the last two months, and that mishaps at the PWS may be related to staffing shortages.

MDEQ informed EPA that monitoring showed that adequate chlorine residuals were still present within the distribution system during and after this lapse of chlorine feed. On August 10, 2017, EPA sent a letter to the Flint 1431 Emergency Order Respondents in response to these staffing issues, the PWS's lack of a permanent D-1 Certified Operator at the treatment plant, lack of a Public Works Director, and ongoing challenges the city is experiencing in maintaining and hiring PWS employees.

In EPA's August 10 letter, EPA requests that the City of Flint and MDEQ submit a plan to EPA by August 18, 2017, to ensure the PWS has the necessary, capable and qualified personnel to properly operate at all times. The Region 5 Flint Enforcement team will review the staffing plan submitted by the respondents to make sure it addresses the concerns of EPA, and work with the respondents to make sure it is implemented in a timely manner.

**Region 5 and HQ Considering Options in Response to Ohio 303(d) Lawsuit**

Key Message: On August 8, Region 5, OGC, and OW held a call to discuss EPA's options, and related litigation risk, in response to the Ohio 303(d) complaint. EPA conferred again with DOJ on August 16.

A final determination on the United States response is still pending. The July 18, 2017 complaint filed by the Environmental Law & Policy Center claims that EPA's decision to approve Ohio's Impaired Waters List was arbitrary, capricious, and not in accordance with the CWA. DOJ has until September 22, 2017, to respond.

### **Residential Well Contamination in Allegan, Michigan, Referred to EPA**

Key Message: Allegan Metal Finishing Company is under investigation as the source of chromium contamination in local business and residential wells.

The facility was referred to EPA by Michigan Department of Environmental Quality on July 17, 2017. The region will be initiating RCRA corrective action activities as well as a Superfund emergency response to address the imminent threats to off-site wells and control of the contamination plume and chromium source. Staff from both programs were on-site on August 16 to review the situation. The County Health Department sampled tap water in June 2017 after receiving complaints of yellow water and found an elevated chromium concentration of 780 ppb; the allowable limit for dermal contact exposure is 100 ppb. Two residents and a local business are currently on bottled water.

Allegan Metal Finishing Company (AMFCO) is a producer of various automotive and appliance parts, and occupies roughly 69 acres in Allegan. The facility is subject to RCRA corrective action authority. The facility began operations in 1959 and primarily functioned as a zinc electroplating facility until 2015, when a fire destroyed the entire facility. Wastewater treatment lagoons on site and on site soils held spent chromium solutions

### **Upcoming Events**

#### **East Chicago Public Meeting on August 19, 2017**

Key Message: EPA, Indiana Department of Environmental Quality, and the city of East Chicago will be meeting with residents to provide an update on the remediation efforts as well as address questions regarding drinking water.

This meeting is part of the regularly scheduled monthly meetings proposed in the Administrator's customer service plan for East Chicago. Acting Regional Administrator Bob Kaplan will be joined by additional Region 5 staff and Senior Advisor to the Administrator Albert "Kell" Kelly. While there will be an update on the ongoing cleanup work, it is anticipated that the majority of the meeting will focus on drinking water.

The region has been coordinating closely with HQ, IDEM and the city in preparation for this meeting.

### **Upcoming Major Decisions**

None

### **Past Week Accomplishments**

#### **PCB Supplemental Environmental Project for Two East Chicago Schools**

Key Message: As part of a settlement, EPA is working on a supplemental environmental project (SEP) to perform PCB light ballast replacement at two schools in the East Chicago, Indiana School District at no cost to the district.

Last week, EPA conducted a tour of six of the seven schools in East Chicago and found two schools that have older light ballasts suspected to contain PCBs. Heritage Environmental has agreed to perform a PCB



light ballast replacement project in the two East Chicago schools – the new Carrie Gosch pre-school and Block Junior High.

The East Chicago school system was chosen after a University of Iowa PCB Study found low level PCBs in air samples collected at four East Chicago schools and pointed to PCB light ballasts as a potential source. The PCB light ballast project will be done as a SEP and is slated to begin before the end of the fiscal year. The project calls for complete removal of all light fixtures at the two schools suspected to contain PCB ballasts and replacement with newer, more energy efficient light fixtures that do not contain PCB ballasts. Heritage Environmental and school administrators believe this project will have a positive impact on the community and booster confidence in the schools for teachers and students.

**Region 5 Participates in Public Meeting for the Removal Action at Plating, Inc. in St. Paul, Minnesota.**

Key Message: Region 5 participated in a neighborhood meeting hosted by Congresswoman Betty McCollum, St. Paul Council President Russ Stark, the city of St. Paul, and Hamline Midway Coalition – District Council 11, August 15.

The purpose of the meeting was to share important information about EPA's cleanup of hazardous waste at the abandoned former site of Plating, Inc. in St. Paul. EPA has begun 24/7 security services at the site. The meeting was well attended and consisted of an EPA presentation and an open forum session, during which residents had an opportunity to voice their concerns and ask questions. Residents commented that they appreciated seeing the different levels of government working together. Prior to the meeting EPA staff conducted a site tour and the security crew reported that neighbors were happy to see the building was being monitored.

**REGION 6****Upcoming Hot Issues and Important Deadlines****Pawhuska Public School District Gas Leak, Pawhuska, Oklahoma**

The Pawhuska School District discovered a gas purge site that is close to one of its school buildings. The school district is working closely with the Governor's Office, the Oklahoma Secretary of Energy and Environment, the Oklahoma Water Resources Board, the Oklahoma Corporation Commission, EPA Region 6, the BIA, and the State Fire Marshall to determine the safety of the school site and corresponding guidance from officials on what actions will be taken regarding the well. Oklahoma has regulatory authority regarding geothermal well drilling and construction and funding available. Oklahoma has also identified emergency funding to assist BIA with oil and gas well plugging if needed. Air monitoring concentrations that have been reported inside the school are less than 2 parts per million (ppm), which are well below levels that would cause an explosive environment or adverse health effects. EPA is conducting air monitoring and sampling to identify any other potential contaminants. The Oklahoma State Department of Health and the Agency for Toxic Substances and Disease Registry (ATSDR) are working with the EPA to provide additional guidance information as sampling and monitoring continues. ATSDR supports the Pawhuska School District's decision to delay the start of school until the source of the leak has been contained. Media interest has been local.

**Cimarex Energy, Culberson County, Texas**

EPA participated in a multi-agency visit to the Delaware River on the Texas-New Mexico border to investigate the site of a spill of over 567,000 gallons (18,000 barrels) of highly concentrated solution of salt water or "brine." It appears the salt water made it to Red Bluff Reservoir with limited impacts. A fish kill of about 150 fish has been documented by the Texas Parks and Wildlife but there does not appear to be a threat to any public water supply since the Red Bluff Reservoir is used for agricultural and industrial uses. The company, Cimerex Energy Company is conducting cleanup of the spill site. Region 6 is preparing to issue an administrative order requiring removal of salt from drainage pathways, restoration of drainage pathways, removal of produced waters from impacted waters and development of a plan to prevent future discharges. The spill was caused by a large scale power outage resulting in pressure surge that ruptured an eight-inch diameter flowline. Media interest has been local.

**New Mexico Indian Affairs and Radioactive and Hazardous Materials Committees, New Mexico**

In coordination with OCIR, representatives from both EPA Regions 6 and 9 will participate in a meeting of two Legislative committees near Farmington, New Mexico on August 22. The New Mexico Indian Affairs Committee and Radioactive and Hazardous Materials Committee requested EPA to summarize progress in assessing and cleaning up hundreds of abandoned uranium mines and mills in Northwest New Mexico and Navajo lands. Other participants invited include the Navajo Nation, the New Mexico Environment Department, and the Multicultural Alliance for a Safe Environment.

**Offshore Oil and Gas General Permit, Western Gulf of Mexico**

Region 6 met with representatives of the Joint Trades (which represents offshore oil and gas operators) on August 9, and were able to resolve most of the group's 46 concerns with the NPDES general permit reissuance. The Region is discussing 5 remaining issues with OW, OGC, and DOJ in order to reach resolution. The Region is currently on schedule to reissue the permit before its September 30, 2017 expiration date. Briefings for the permit reissuance need to take place during the week of 4 September 2017. This will allow sufficient time for OP and potential OMB review. While existing discharges will remain covered following expiration of the permit, new discharges and transfers of ownership could not receive coverage under the permit, causing significant disruptions to offshore oil and gas production. The western Gulf permit covers about 3,000 facilities and about 10,000 discharges, and ongoing permit coverage is necessary to accommodate frequent operational changes and new development.

**Bird Creek, Osage County, Oklahoma**

Region 6 Acting RA met with the Osage Minerals Council (OMC) to provide them with an update of the ongoing activities. The OMC expressed support and appreciation for the EPA activities to protect the water and land resources in Osage county. Region 6 met with Warren American Oil Company and Jireh Resources, LLC related to the recently issued proposed Administrative Orders to shut in injection wells near Bird Creek. During the meeting it appeared the companies understood the technical basis for the enforcement actions, but they were still very interested in determining whether disposal injection could occur in another formation. The companies will likely request an administrative hearing on the proposed orders before they become final. The injection wells for Warren America have been shut in but the injection wells for Jireh Resources, LLC continue to be operational while the order is proposed. Region 6 will meet with Novy Oil and Gas, Inc./ Grayhorse Operating, Inc. to discuss their Proposed Administrative Order. Their injection well has been inoperative since April 2017. Region 6 is evaluating the extent of possible impact to the USDW near Bird Creek. The area under consideration includes about seven additional injection wells that lie within a three-mile radius of the Bird Creek site. With regard to continued monitoring of the original sites, Region 6 will be collecting additional data from 10 in-stream monitor stations at Bird Creek during the week of August 21.

**Coal Combustion and Residuals (CCR) Permit Program, Oklahoma**

On August 2, 2017, Region 6 received the Oklahoma Coal Combustion Residuals State Permit Program application. Based on a cursory review of the application, the Region expects Oklahoma to include Indian country (i.e., non-reservation land) in their CCR permit program. This may require a policy decision prior to a final action.

**Chevron Questa Mine, Taos County, New Mexico**

EPA intends to meet with Chevron Environmental Management Company (CEMC) to discuss the agency comments on the Pre-Final Design Report for the Tailing Facility Grading Plan. Staff from the New Mexico Environment Department (NEMD) and the Energy, Minerals and Natural Resource Department also plan to attend the meeting. The EPA requested that CEMC address deficiencies in the Pre-Final Design Report and submit a Final Design Report that is approvable without further comment. CEMC is in the process of closing the Tailing Facility and is developing a closure grading plan. Site grading and placement of cover material in the Dam 1 portion of the Tailing Facility will mark the first construction phase of Tailing Facility closure activities. In addition, EPA also plans to inspect the site test plots constructed in 2015. The test plots were constructed to evaluate the use of different amendments used in the cover system for waste rock piles. This is a significant step in advancing the work at the Chevron Questa SF Site. EPA, state of NM and Chevron are working collaboratively use adaptive management to advance the work at this large and complex SF site to continue to make progress and remove environmental risks.

**Fieldwood Energy LLC, Gulf of Mexico**

The pressure in the well is averaging above 9850 PSI. The Department of Interior Bureau of Safety and Environmental Enforcement (BSEE) is the lead federal agency. Fieldwood Energy has provided necessary information and BSEE has approved all plan for the well intervention process. The well head tree cap has been removed, the tree running tool has been installed and pressure testing of the tree running tool is progressing. The bleed down process of the well is expected to be conducted soon. No leaks have been detected from the well head or associated equipment. Remote Operating Vehicle (ROV) operations continue with visual observation of the well head with no leaks detected at this point. On July 28, Fieldwood Energy LLC notified the federal Department of Interior Bureau of Safety and Environmental Enforcement (BSEE) of an abnormality with a well located offshore in the Gulf of Mexico about 160 miles southwest of New Orleans. Fieldwood Energy continues to fly a Remote Operating Vehicle (ROV)

to identify any leaks from the wellheads, common manifold or riser. No leaks have been discovered in any component of the system. The Unified Command continues with regular briefings and updates. Once pressure tests are completed on the tree running tool and monitoring of the well pressure will continue.

**TOTAL Petrochemicals & Refining USA, Inc., Port Arthur, Texas**

EPA intends to conduct a Clean Air Act Consent Decree Audit Inspection at TOTAL Petrochemicals & Refining USA, Inc., Port Arthur Refinery, Port Arthur, Texas under the National Refinery Initiative to determine compliance with their Consent Decree. The inspection will focus on compliance with the Consent Decree and the Texas Commission on Environmental Quality (TCEQ) - Region 10 (Beaumont, TX) had been provided the opportunity to participate in the CAA Consent Decree Audit. The State of Texas is not named as a plaintiff in the Consent Decree and they have not committed to attending the inspection. This inspection falls under the National Refinery Initiative under CAA.

**Professional Compounding Company of America, Houston, Texas**

On August 9, 2017, EPA Region 6 issued a Consent Agreement and Final Order (CAFO) under its authority pursuant to the Resource Conservation and Recovery Act (RCRA) to Professional Compounding Company of America (PCCA) located in Houston, Texas. Data from a Texas treatment, storage, and disposal facility indicated discrepancies between PCCA's designated status as conditionally exempt and actual shipments as a small quantity generator subject to hazardous waste generator requirements.

**G&H Diversified, Houston, Texas**

On August 9, 2017, EPA and G&H Diversified Mfg., L.P., filed a CAFO with the regional hearing clerk resolving violations of Section 3010(a) of the Resource Conservation and Recovery Act. Using data analysis, EPA discovered that G&H's Houston, Texas facility operated as a large quantity generator of hazardous waste for two years without properly notifying the State of Texas or EPA of its status change and failed to comply with other generator requirements.

**Westlake Chemical OpCo, LP, Sulphur, Louisiana**

On August 16, 2017 the Environmental Protection Agency (EPA) Region 6 filed a Consent Agreement and Final Order (CAFO) resolving alleged violations of Section 112(r)(1) of the Clean Air Act by Westlake Chemical OpCo, LP (Westlake) located in Sulphur, Louisiana. Westlake's quality assurance and control process did not include verifying with the contractor whether gaskets in newly fabricated equipment were suitable for the process application for which it would be used.

**NEPA****Canyon Lake Master Plan, Comal County, Texas**

The United States Army Corps of Engineers (USACE) prepared a Draft Environmental Assessment and Findings of No Significant Impact for the Canyon Lake Master Plan. USACE is proposing a direction for appropriate management, use, development, enhancement, protection, and conservation of the natural, cultural, and man-made resources at Canyon Lake. EPA will support USACE by meeting our basic statutory requirements for participating in the environmental review process.

**Dallas to Houston High Speed Rail Project, Texas**

The Federal Railroad Administration (FRA) is preparing a Preliminary Draft Environmental Impact Statement (EIS) for the Dallas to Houston High Speed Rail Project. FRA is proposing to assess the potential beneficial and detrimental effects of implementing the proposed project. The Preliminary Draft EIS documents FRA's evaluation of Texas Central High-Speed Railway's, LLC and its affiliates' proposal to construct and operate a 240-mile, for-profit, high-speed passenger rail system connecting Dallas and Houston using the Japanese N700 Tokaido Shinkansen technology. With proposed terminal

stations options in Dallas and Houston, the Study Area encompasses the counties of Dallas, Ellis, Navarro, Freestone, Limestone, Leon, Madison, Grimes, Waller and Harris. Region 6 will support FRA by meeting our basic statutory requirements for participating in the environmental review process.

### **Upcoming Public Events**

[ [HYPERLINK "x-apple-data-detectors://17"](#) ] – National Air Quality Conference, [ [HYPERLINK "x-apple-data-detectors://31/1"](#) ] [ [HYPERLINK "x-apple-data-detectors://31/1"](#) ] Attendees will learn the latest information on air quality forecasting and mapping.

[ [HYPERLINK "x-apple-data-detectors://20"](#) ] - 19th Annual Stormwater Conference in San Antonio, TX. The Conference will inform and educate professionals on controls that can address water pollution

[ [HYPERLINK "x-apple-data-detectors://21"](#) ] – Arkansas Environment Federation 50<sup>th</sup> Annual Convention, Hot Springs, AR. Acting Regional Administrator will keynote.

### **Upcoming Decisions**

#### **Final Title V Operating Permit Program Evaluation for the Arkansas Department of Environmental Quality**

EPA is releasing the final Title V Operating Permit Program. Evaluation for the Arkansas Department of Environmental Quality (ADEQ) on August 22, 2017. Findings have been thoroughly vetted with ADEQ, and it provided a commitment letter to EPA Region 6 identifying specific actions to address identified concerns. The most significant issue relates to documenting utilization of Title V fees to pay only ADEQ Title V program's proportional share of overhead costs.

#### **Quapaw Tribe of Oklahoma, Oklahoma**

EPA Region 6 and 7 have conducted final review of the Quapaw Tribe of Oklahoma's application for Treatment as a State (TAS) for Clean Air Act (CAA) authority on Tribal lands in Oklahoma and Kansas. This action was signed by both Region 6 and Region 7 Acting Regional Administrators. The Tribe seeks authority for the following non-regulatory programs: CAA §105 – allows Tribe to apply for funding at a reduced match of 5%; CAA §107(d)(3) – EPA notice to Tribe for re-designation process participation; CAA §126 (a) & (b) – State notice to Tribe of new or modified sources; ability to petition and CAA §505(a)(2) – State notice to Tribe of certain operating permits within 50 miles. The 30-day public comment period on the proposed application closed on March 17, 2017, and no comments were received. The Communication of this final decision is pending approval by HQ

#### **Oklahoma Department of Environmental Quality (ODEQ) Request for CAA 111/112 Delegations**

On February 24, 2015, EPA published a direct final rule and parallel proposal to approve Oklahoma DEQ's National Emission Standards for Hazardous Air Pollutants (NESHAP) delegation request (CAA Section 112). Consistent with applicable legal principles and EPA's longstanding approach, EPA excluded Indian country from the State's delegation. Oklahoma DEQ commented adversely on EPA's proposed exclusion of non-reservation Indian country (*i.e.*, dependent Indian communities and allotments) from the delegation, arguing that the State has jurisdiction over such areas under the CAA. Oklahoma DEQ does not challenge EPA's exclusion of reservation areas (*i.e.* Tribal trust land). The CAA section 107(a) gives the States primary responsibility for assuring air quality "within the entire geographic area" of the state "by submitting an implementation plan under Section 110 for such State which will specify the manner in which national primary and secondary ambient air quality standards will be achieved and maintained." The primary issue is that the New Source Performance Standards (NSPS) under Section 111 and the NESHAP standards under Section 112 are not CAA Section 110-based SIP programs. Sections 111 and 112 standards can be independently enforced by EPA, and States are not required to apply for or

accept delegation of such standards. A policy decision is required before Region 6 can process a final action.

**Past Week Accomplishments**

**Approval and Promulgation of Implementation Plans; Louisiana; Volatile Organic Compounds Rule Revision and Stage II Vapor Recovery**

Region 6 approved revisions submitted by the State of Louisiana controlling emissions of volatile organic compounds (VOCs) and changes to the Stage II gasoline vapor recovery rule as part of the Louisiana State Implementation Plan (SIP). This final action will be published in the Federal Register.

**Texas Regional Haze**

EPA asked the court to move the [ [HYPERLINK "x-apple-data-detectors://1"](#) ] deadline in two consent decrees to [ [HYPERLINK "x-apple-data-detectors://2"](#) ], consistent with the Clean Air Act's state-first approach to implementation as passed by Congress. Currently, the EPA's deadline of [ [HYPERLINK "x-apple-data-detectors://0"](#) ] is to approve a state implementation plan (SIP), or issue a federal implementation plan (FIP), related to regional haze in Texas. While there currently is no SIP available to approve, the agency and the State of Texas have entered into a Memorandum of Agreement for the State to provide a SIP that could be approved by end of 2018. The Governor of the State of Texas has provided a separate letter reinforcing that commitment. The EPA is proposing this alternative as an acceptable approach to providing clean air protection in Texas.

**Pending Actions (Pending Federal Register Publication)**

**Arkansas Hazardous Waste Incorporation by Reference, Proposed and Direct Final (9966-54-Region6 & 9966-55-Region6)**

**REGION 7****Hot Issues****Solar Eclipse Pre-Deployment (St. Joseph, MO)**

**Key Message:** EPA received a request from the Police Chief in the City of Gower, MO (just south of St. Joseph) to pre-deploy an EPA OSC for the Solar Eclipse event on August 21, 2017.

- The police chief is concerned about the volume of traffic and persons travelling to view the event and requested an OSC in the event of any environmental emergencies in the area.
- OSC Susan Fisher is pre-deploying and will be coordinating EPA activities with the police chief.

**Last Week's Highlights****Cass Ave Asbestos Response Update (St. Louis, MO)**

**Key Message:** On Aug 4, the responsible party completed agreed upon removal from the Clemens Fire in St. Louis including debris removal and activity based sampling.

- On August 15, EPA attended a public meeting in the community hosted by the City of St. Louis Health Department to discuss the activities completed by the responsible party
- The responsible party plans to demolish the affected structure within the next month. This activity will be under the oversight of the city of St. Louis or the state.

**Update on Toastmaster Site (Macon, MO)**

**Key Message:** EPA continues to conduct assessment activities of the areas around the former Toastmaster site to determine the impacts of vapor mitigation units at the former Toastmaster facility.

- On August 14-18, 2017, the R7 Environmental Response Team and Superfund staff conducted sampling using the Trace Atmospheric Gas Analyzer bus to collect ambient air and indoor air samples at residences adjacent to the former Toastmaster facility.
- R7 also plans to collect ambient air samples in the surrounding neighborhood on a biweekly basis and analyze the samples at the R7 laboratory to determine if the mitigation systems are having an effect on ambient air surrounding the former Toastmaster facility.
- EPA continues to negotiate a second ASAO with the former owner Spectrum Brands to delineate the source and plume of TCE contamination and to recommend removal alternatives.

**Meramec River Study Coordination Meeting**

**Key Message:** On August 15, EPA participated in a Meramec River Feasibility Study work group meeting in Columbia, Missouri with representatives from US Fish and Wildlife Service, Missouri Department of Natural Resources, Missouri Department of Conservation, and US Army Corps of Engineers.

- The focus of the meeting was on reviewing prospective site locations for river bank and channel construction proposals to include in the NRD restoration feasibility study and EPA remedial alternatives.
- The Corps and natural resource trustees presented a range of alternatives to address contaminated stretches of the lower Big River.
- Due to the likelihood of long term Superfund remediation projects along the river, there is a continuing need for coordination among the multiple agencies that have planned projects along the river.

**Update on Vapor Intrusion TCE Exposures at Properties in Ogallala, NE**

**Key Message:** EPA is continuing to address concerns about exposures due to TCE vapor intrusion (VI) at the Ogallala Groundwater Contamination Site in Nebraska.

- This week, EPA is receiving bids for TCE VI mitigation systems at three Ogallala properties.

- Two additional properties have also been sampled and data received from the lab indicates elevated TCE levels.
- Owners of both properties have previously been reluctant to grant access for sampling and may be reluctant to engage with EPA in the future.
- Superfund program staff are coordinating with regional counsel regarding access issues.

**Railroad Avenue Groundwater Contamination Site (West Des Moines, IA)**

Key Message: EPA will be transferring responsibility for implementation of the long term remedy for Operable Unit (OU) 1 of the Railroad Avenue Groundwater Contamination Site to the Iowa Department of Natural Resources this fiscal year.

- The Operational and Functional (O&F) determination for OU1 was made on 9/12/07 and the ten-year Long-Term Response Action (LTRA) period will end on the transfer date of 9/12/17.
- The remedial action at OU1 currently consists of monitored natural attenuation and as part of this transfer IDNR will be responsible for collecting routine groundwater and surface water samples and providing the data to EPA in annual reports.
- The LTRA Transfer Agreement between EPA and IDNR, which describes the site background and roles and responsibilities following transfer of the remedial action, and the related approval memo will be routed for Superfund Division Director signature next week.

**Region 7 Finalizes Administrative Order for Compliance on Consent with Benton's Sand and Gravel**

Key Message: On August 11, 2017, EPA R7 and Benton's Sand and Gravel entered into an Administrative Order for Compliance on Consent to address Clean Water Act violations at the company's sand and gravel facility in Cedar Falls, Iowa.

- EPA's inspection in December 2016 documented stockpiles and outfalls without stormwater controls, sediment in outfalls that flow to Snag Creek, a tributary to the Cedar River, and other violations of the facility's stormwater National Pollutant Discharge Elimination System permit.
- The Order requires the facility to revise its stormwater pollution prevention plan, install and maintain appropriate stormwater controls, and conduct inspections, monitoring, and training in accordance with the permit.
- EPA contacted IDNR prior to initiating pre-filing negotiations, and IDNR concurred in this enforcement action.

**Region 7 Finalizes Consent Agreement and Final Order with Benton's Ready Mixed Concrete**

Key Message: On August 14, 2017, EPA R7 finalized a Consent Agreement and Final Order with Benton's Ready Mixed Concrete to resolve violations of the facility's stormwater National Pollutant Discharge Elimination System permit at its concrete supply facility in Cedar Falls, Iowa.

- EPA's inspection in December 2016 documented concrete waste material stockpiles and other areas without stormwater controls, sediment in outfalls that flow to Snag Creek, a tributary to the Cedar River, and other violations of the facility's permit.
- EPA contacted IDNR prior to initiating pre-filing negotiations, and IDNR concurred in this enforcement action.
- In settlement of this matter, Benton's Ready Mixed Concrete will pay a civil penalty of \$27,630.



**REGION 8****Hot Issues****Colorado Smelter Superfund Site**

**Key Message:** EPA is extending until September 15, 2017, the comment period for the Early Interim Action Proposed Plan for the Colorado Smelter Superfund Site in Pueblo, CO

- During the public meeting for the early interim action proposed plan on August 9, 2017, a Pueblo resident requested an extension to the comment period. Because the request was made prior to the end of the initial comment period, EPA is required to extend the comment period by a minimum of 30 days.
- The interim Record of Decision (i-ROD) is being completed concurrently with the drafting of the Responsiveness Summary for review by Region 8, OLEM, and the State of Colorado.
- Region 8 is working closely with OLEM to ensure that the current allocation of funding remains available for use on the project.

**Key Message:** Congressman Scott Tipton requested a Colorado Smelter Site briefing and tour in Pueblo on August 25, 2017:

- The Site RPM, Community Involvement Coordinator, Congressional Liaison, Region 8 management, and two Community Advisory Group members will participate.

**Region 8 RCRA Staff to Support State of Colorado's Request for Assistance to Characterize Solid Waste Brine Waters**

**Key Message:** Colorado Department of Public Health and Environment (CDPHE) has requested EPA expertise with data collection and analysis to support a state beneficial use determination.

- The State of Colorado is in the process of making a beneficial use determination for the Reams Construction/Naturita Enterprises (Reams) facility regarding the use of solid waste brine waters from the facility for dust suppression on dirt roads in southwest Colorado.
- The Reams facility accepts a range of oilfield wastes, including drilling fluids, drill cuttings, tank bottoms, hydraulic fracturing fluid flowback, and produced water, and treats the liquid portion of the wastes through a series of evaporative ponds.
- The facility markets a product under the name of "Fossil Water" as an alternative to magnesium chloride dust suppressant.
- Representatives of the Ute Mountain Ute Tribe have expressed concern about potential impacts from this product to a tribal drinking water reservoir intake near Cortez, Colorado.
- In a letter dated August 16, 2017, CDPHE requested EPA assistance with data collection and analysis to fill data gaps that have prevented the State from completing its beneficial use determination.
- Region 8 leadership recently met with facility representatives and Colorado State Senator Don Coram to discuss this matter, and the facility supports EPA's efforts to assist the State with data collection and analysis to facilitate the beneficial use determination.

**Upcoming Public Events**

None.

**Upcoming Major Decisions****Addressing Air Quality Issues on Uintah and Ouray Reservation**

**Key Message:** (Decision needed from OA – first reported 7/27) Region 8 is ready to begin working on an Advanced Notice of Proposed Rulemaking for a proposed FIP for the U&O Reservation to address concerns raised by several industry representative and the Ute Tribe.

- **Update:** The Ute Tribe has sent a letter to the Administrator requesting a meeting with him in September to discuss this matter.
- Industry representatives and the Ute Indian Tribe have emphasized the need for EPA to develop a mechanism to allow EPA to continue to issue minor source permits after nonattainment designation.
- On June 1-2, 2017, EPA R8 met with several industry representatives and the Ute Indian Tribe to discuss options to allow energy production to continue post-nonattainment designation, while also ensuring that new/modified sources do not cause or contribute to ozone exceedances.
- Industry representatives suggested the Advanced Notice of Proposed Rulemaking approach to allow specific comments from stakeholders and to give EPA an opportunity to make revisions prior to formal proposal. The Tribe is supportive of the approach.
- On July 12, 2017, Sarah Dunham and Mandy Gunasekara were briefed on options for moving forward including the Advanced Notice of Proposed Rulemaking. We are awaiting a decision.
- This is time sensitive given the time it will take for the ANPR, proposed FIP and final action.

#### **Last Week Highlights**

##### **Wyoming Stream Quantification Tool Released for Beta Testing:**

**Key Message:** Region 8 has been working with the U.S. Army Corps of Engineers, Wyoming Game and Fish Department and Wyoming Department of Environmental Quality to develop the Wyoming Stream Quantification Tool (WSQT) to quantitatively assess accrual or attainment of aquatic functions or the loss of aquatic functions.

- The WSQT was developed with project funding from EPA Region 8 and Headquarters.
- The tool is currently out on Public Notice for beta testing and public comment for 90 days.
- Following beta testing and revision, this tool will assist regulatory program staff in determining adequate mitigation for impacts to stream ecosystems.
- The tool can also be used for planning restoration projects, long-term project monitoring and setting performance standards to measure accrual and attainment of aquatic resource functions.

**REGION 9****Important/Urgent Issues**

**Tribal GAP performance:** we'll be sending a comprehensive GAP grant-related letter to the Hopi Tribal chairman, escalating our long-standing engagement with Hopi EPA for cost documentation, quarterly reports, and other materials. We're seeking documents which support \$430K in Hopi EPA cost charging for the 2011-2013 GAP grant, and highlighting more contemporary issues which need resolution.

**External Engagement**

1. **Lake Tahoe Summit:** each August, the Nevada and California senators convene in Lake Tahoe with federal, state and local agencies, NGOs and the public to discuss progress in improving environmental conditions in the Lake Tahoe Basin. Last year's meeting focused on forest health. I'll attend this year's meeting on Tuesday at a Forest Service venue in South Lake Tahoe, and will recap EPA's principal investments in and contributions to lake clarity, stormwater controls, and wetland restoration.
2. **Mexican Border infrastructure:** we look forward to Ken Wagner's visit to our San Diego Border Office Monday/Tuesday. We're working with OCIR to brief the House Transportation and Infrastructure staff next week, at their request.
3. **Quarterly tribal leadership meeting:** the Regional Tribal Operations Committee meeting will convene in Peach Springs, AZ, hosted by the Hualapai Tribal Chairman next Tuesday and Wednesday. RTOCs alternate each quarter between Region 9 EPA and an Indian Country venue. Our Land Division Director, Jeff Scott, and Water Division Director, Tomas Torres, will attend.
4. **Oil Spill Training:** with ERT, we're offering oil spill response training to a very large cohort of US Coast Guard, State and local partners, including the Monterey Bay Aquarium Research Institute, the Union Pacific Railroad, and others, next week at Elkhorn Slough, once of the most environmentally sensitive habitats along the central California coast.

**Past Week's Highlights**

**Recreation lakes reopened:** following EPA R9's analysis of hundreds of microcystin samples from two popular recreational lakes in the Oakland/San Francisco area, environmental health officials opened the lakes to recreational swimming after months of closure due to blue-green algae toxins. EPA provided quick turnaround of water samples, reporting results within 24 hours of receipt. Our lab has analyzed over 10,000 microcystin samples for state, tribal and local agencies. Our staff benefitted greatly from Las Vegas ORD lab colleagues: as part of ORD's R2P2 program, we learned new techniques which expand our capabilities to test for additional types of toxins. See local coverage: [ [HYPERLINK "http://www.sfgate.com/news/bayarea/article/Lakes-Closed-By-Toxic-Algae-Blooms-To-Reopen-11760571.php"](http://www.sfgate.com/news/bayarea/article/Lakes-Closed-By-Toxic-Algae-Blooms-To-Reopen-11760571.php) ]

**REGION 10****Hot Issues**

**Liberty Oil and Gas Development Project Draft Environmental Impact Statement and Draft NPDES Permit (Alaska):** The Liberty reservoir is the largest undeveloped light oil reservoir on the North Slope. Hilcorp Alaska, LLC proposes to construct a reinforced gravel island 5 miles offshore in the Beaufort Sea. The operation would separate crude oil from water and gas, and include a subsea pipeline to the shore. On August 14, the Bureau of Ocean Energy Management (BOEM) filed the Draft Environmental Impact Statement (DEIS) for the Liberty Project with EPA's Central Data Exchange. The Notice of Availability for this DEIS will be published in the Federal Register on August 18, with a 90-day public comment period. EPA is coordinating the public review of the draft NPDES permit, fact sheet, and draft Ocean Discharge Criteria Evaluation with BOEM's DEIS schedule by making the draft NPDES documents available for public review within the same timeframe. The final schedule of the public hearings and tribal consultation meetings for the Liberty Project is as follows: Mon. Oct. 2 in Nuiqsut, AK; Tues. Oct. 3 in Fairbanks, AK; Wed. Oct. 4 in Kaktovik, AK; Thurs. Oct. 5 in Utqiagvik (Barrow), AK; and Tues. Oct. 10 in Anchorage, AK. Additionally, EPA staff continue to assist BOEM with the joint development of the Biological Assessment to support ESA consultation for both the DEIS and the NPDES permit action.

**Upcoming Public Events**

**Bunker Hill Superfund Site (Coeur d'Alene Basin) Soil Sampling, Idaho:** Beginning the week of August 21, EPA will collect soil samples at the Old Cataldo Mission, a popular tourist and recreation site. The property is listed on the National Register of Historic Places and has important cultural significance to the Coeur d'Alene Tribe. On August 9, EPA held a pre-sampling meeting with the Coeur d'Alene Tribe, Idaho DEQ, Idaho Dept. of Parks and Recreation, and the CDA Work Trust. The sampling team will ensure activities and documentation comply with the National Historic Preservation Act (NHPA). Public concerns may be raised, given the sensitivity of this site and past efforts to use the NHPA to slow or stop cleanup work at other sites in the Basin.

**Lead Paint Outreach in Twin Falls, Idaho:** On August 31, Region 10 staff will be in the Twin Falls, area, conducting outreach at the Twin Falls Public Library. Outreach includes presentation of two videos produced by Marie Leiner, PhD, titled "The Story about Lead" and "The Mysterious Case of Lead," followed by a Lead Awareness Presentation. The focus is on educating parents and children about the lead paint hazards in pre-1978 homes. They will learn how exposure to lead, including lead dust, can cause health effects ranging from behavioral problems and learning disabilities to nervous system and kidney damage.

**Alaska Oil and Gas Workshop:** On August 23, EPA staff will host a one-day workshop. The workshop will include Oil and Gas Basics by the Alaska Oil and Gas Association and presentations by nine active operators in the state (Alyeska, Armstrong, BlueCrest, BP, Caelus Energy, ConocoPhillips, Eni Petroleum, ExxonMobil, and Hilcorp). The presentations will cover a summary overview of their oil and gas activities in Alaska as well as operational and regulatory challenges. We have received significant interests from state and federal partners to participate in the workshop, with confirmed attendance from BLM, BOEM, USFWS, U.S. Army Corps of Engineers, and Alaska Department of Environmental Conservation. We are waiting to receive final confirmation from AK Department of Natural Resources and Alaska Oil and Gas Conservation Commission.

**Upcoming Major Decisions**

**Alaska Underground Injection Control (Class I) Permit Renewals:** Region 10 is reissuing Class I UIC (nonhazardous) injection well permits for three facilities on the North Slope of Alaska: Savant Alaska's Badami Unit, Caelus Natural Resources Alaska's Oooguruk Unit and BP Exploration's Prudoe Bay Unit Grind and Inject Facility. The term for each permit is ten years. EPA has coordinated with all appropriate stakeholders and will share copies of the reissued permits with partner state agencies (Alaska Oil and Gas Conservation Commission and Alaska Department of Environmental Conservation). Following public comment that ended July 31, EPA only received comments from the permittees. Addressing these comments required only minor changes to permit language and did not affect permit conditions.

**Approval of the Swinomish Tribe's Recreational Water Quality Standard Criteria (within Washington State):** By August 31, Region 10 is planning to approve the Swinomish Tribe's water contact bacteria criteria to protect primary contact and spiritual & cultural uses in the Tribe's fresh water and marine water. The Tribe's bacteria criteria addressing the protection of primary contact and spiritual & cultural uses in marine water are scientifically defensible, protective of the designated uses, and consistent with the EPA's 2012 Recreational Water Quality Criteria, and address the CWA requirements for coastal recreation waters. For fresh waters the Tribe's bacteria criteria addressing the protection of primary contact and spiritual & cultural uses are also scientifically defensible, protective of the designated uses, and consistent with the EPA's 2012 Recreational Water Quality Criteria.

**Approval of Oregon's Recreational Water Quality Standard Criteria:** By August 31, Region 10 is planning to approve Oregon State's rule revisions, with the exception of certain implementation provisions that are not Water Quality Standards. Oregon submitted revisions to its water quality standards for bacteria in September 2016, with additional clarifications submitted in early 2017, including updates to its recreational water quality criteria in marine waters, designated use maps that clarify where marine and freshwater recreation occur, and a new designated use shellfish harvesting map that shows where recreational shellfishing occurs in Oregon.

**Last Week Highlights**

**Northside Landfill Superfund Site 5 Year Review, Spokane, WA:** Region 10 completed the fifth Five Year Review for the Northside Landfill Superfund Site. The review includes three recommendations; filling in low spots in the cap, completing an engineering review of the buffer area erosion and reaching out to a new private well owner regarding groundwater sampling. There have been no exceedances in perchloroethylene, or other Contaminants of Concern since the pump and treat system has been on stand-by (5 years). December 15, 2017, will mark the 5-year ROD requirement to meet MCLs at the site. A Site Optimization report will be final this fall. Region 10 will begin the process to delete the site from the National Priorities List in 2018.

**Pesticides Outreach on Worker Protection Standards (AK, ID, OR and WA):** During the week of August 11, Region 10 distributed 4,500 DVDs to our state Departments of Agriculture and Occupational, Safety and Health. The videos were developed using Region 10 pesticide funding and provide pesticide safety training for farmworkers and forestry workers. The DVDs meet the regulatory requirements for "worker" training under the new 2015 revised Worker Protection Standards.

**OFFICE OF AIR AND RADIATION****Upcoming Hot Issues and Important Deadlines****Proposed Rules under review at OMB:**

- Municipal Solid Waste (MSW) Landfills New Source Performance Standards (NSPS) and Emission Guidelines (EG)
- Review of the Clean Power Plan

**Sulfur Dioxide (SO<sub>2</sub>) Designations:** Per a court order, we have a December 31, 2017, deadline to promulgate final SO<sub>2</sub> area designations for Round 3 (which includes modeled areas and areas without monitors). To meet this deadline, the Regional Administrators plan to send 120-day letters to the States on August 22 which will notify the States of any intended modifications to their attainment/nonattainment recommendations.

**Clean Air Scientific Advisory Committee (CASAC) meeting on SO<sub>x</sub> NAAQS Review:** As part of the ongoing review of the primary NAAQS SO<sub>x</sub>, OAR is planning to release for CASAC review and public comment the external review draft of the Policy Assessment (PA) and Risk and Exposure Assessment (REA) documents. The CASAC meeting is scheduled for September 18-19. Preliminary information indicates that the scientific evidence supports the conclusions of the last review. The SO<sub>2</sub> NAAQS review is on a court-ordered schedule, with a proposed decision required by May 25, 2018, and a final decision by January 28, 2019.

**Upcoming Meetings, Public Events, or Other Public Releases**

**Agricultural Air Quality Conservation Measures – Reference Guide for Poultry and Livestock Production Systems:** EPA has received requests to identify measures that may be considered to manage air emissions from livestock operations and potentially satisfy State Implementation Plan requirements. These requests have come from a variety of stakeholders, including USDA's Agricultural Air Quality Task Force, agricultural producers, industry representatives and state and local agencies. This reference guide is chiefly designed as a technical tool to provide a compilation of approved practices from the USDA Natural Resources Conservation Service (USDA-NRCS) to address air emissions from livestock and poultry operations in areas where those operations have been demonstrated to contribute to air quality issues. USDA is currently reviewing the final draft. We plan to release the guide in late August.

**Upcoming Decisions**

**For Administrator's Signature - Phosphoric Acid Manufacturing and Phosphate Fertilizer Production Risk and Technology Review (RTR):** This final rule responds to two petitions for reconsideration filed by industry stakeholders on the RTR. The package is with OP for review.

**For Administrator's Signature – Procedure 6 Technical Amendments:** This final rule makes technical amendments to Procedure 6 to resolve some minor inconsistencies between the initial proposal and final publication. (Procedure 6 specifies the minimum requirements necessary for control and assessment of the quality of continuous emission monitoring systems data submitted to EPA and used for hydrogen chloride emissions compliance determination at stationary sources). The package is with OP for review.

**For Administrator's Signature – Refrigerant Management Regulations for Small Cans of Motor Vehicle Refrigerant:** This direct final rule and parallel proposal corrects a potential conflict in a November 2016 final rule that updated EPA's refrigerant management regulations. The package is with OP for review.

**For Administrator's Signature – National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing; Rotary Spin Lines Technology Review:** This rule is proposing revised formaldehyde emission limits, setting new methanol emission limits for new and existing RS lines, as well as work practice standards to demonstrate compliance with potential phenol emissions. EPA conducted a technology review for rotary spin (RS) lines as part of the Wool Fiberglass Manufacturing NESHAP. In addition, the agency has reviewed revised emissions data for wool fiberglass flame attenuation (FA) lines, as provided by industry, and is setting standards that more accurately reflect current industry conditions related to the FA lines. This package is with OP for review. (Signed – 8/18)

**For Administrator's Signature – Interstate Transport of Fine Particulate Matter: Revision of Federal Implementation Plan Requirements for Texas:** This final rule will provide certainty to the Texas EGUs whose FIP requirements are being withdrawn and provide a stronger legal foundation for expected finalization of an action by September 9, 2017 that would rely on CSAPR as a NOX BART alternative for Texas EGUs. Note that there are still ongoing discussions that would have implications for the timing of this action.

**For Administrator's Signature –Dry Impinger Method for Determining Condensable Particulate Emissions from Stationary Sources:** This rule is proposing technical revisions and editorial changes to clarify and update the procedures specified in Method 202. The technical revisions to the method would incorporate findings from the EPA's Method 202 Best Practice Handbook, published in March of 2016. The handbook provides quality control procedures for evaluating the cause of blank contamination and practices to reduce contamination. This package is with OP for review.

**For Administrator's Signature – Approval and Promulgation of Air Quality Implementation Plans; Montana; Regional Haze Federal Implementation Plan:** This final rule will revise the Montana regional haze federal implementation plan (FIP) by revising the nitrogen oxide (NO<sub>x</sub>) emission limit from 6.5 lb/ton clinker to 7.6 lb/ton clinker for the Trident cement kiln, owned and operated by Oldcastle Materials Cement Holdings (Oldcastle) in Montana. This notice also corrects two errors in the original 2012 Montana regional haze FIP. This final rule promulgates changes to the FIP as proposed on April 14, 2017. This package is with OP for review.

#### Recap of the Past Week

##### **Actions signed recently:**

- Proposed Rule to Approve Request from Tennessee to Relax the Summer Gasoline Volatility Standards for Shelby County
- Good Cause Final Rule and Proposed Rule: National Emission Standards for Hazardous Air Pollutants (NESHAP) from the Portland Cement Manufacturing Industry: Alternative Monitoring Method

**2017 International Emission Inventory Conference:** EPA hosted the 2017 International Emission Inventory Conference in Baltimore.

#### State Implementation Plan (SIP) Actions

The following 9 SIP actions were signed this week:

- **Region 1:** Proposed Rulemaking for the Rhode Island 2010 NO<sub>2</sub> and SO<sub>2</sub> I-SIP, Good Neighbor Provision
- **Region 4:** Final full approval for the Redesignation of the Knoxville, Tennessee 1997 Annual PM<sub>2.5</sub> Nonattainment Area to Attainment
- **Region 4:** Final full approval for the Redesignation of the Knoxville, Tennessee 2006 24-hour PM<sub>2.5</sub> Nonattainment Area to Attainment

- **Region 4:** Final full approval of Louisville, Kentucky changes to stationary source emissions monitoring and reporting requirements
- **Region 4:** Final full approval of Louisville, Kentucky miscellaneous rule revisions pertaining to definitional changes, administrative amendments, open burning, standards of performance, and volatile organic compounds
- **Region 6:** Approval of a Louisiana Volatile Organic Compounds (VOC) Rule Revision and Stage II Vapor Recovery
- **Region 9:** Final Finding of Failure to Submit of the Sacramento 2008 8-hr Ozone
- **Region 9:** Proposed Approval of Nevada's Request to Rescind Oxygenated Fuel Requirements in Washoe County
- **Region 9:** Final Approval of the 2015 and 2016 Revisions to South Coast's RECLAIM program (LA Area of CA)



**OFFICE OF ENVIRONMENTAL INFORMATION**

Nothing to report this week.

**OFFICE OF GENERAL COUNSEL****New Judicial Decisions**

- On August 11, in *Ron Foster v. EPA* (14-16744), the Southern District of West Virginia granted summary judgment partially in EPA's favor. In 2014, Ron Foster, Foster Farms, LLC, and Marketing and Planning Specialists brought claims against EPA 1) challenging a 2012 EPA administrative compliance order 2) challenging EPA's exercise of CWA jurisdiction on the property, 3) alleging procedural due process, substantive due process, and equal protection violations. EPA filed counterclaims against the Plaintiffs, alleging violations of the CWA by discharging pollutants into waters of the US without a permit. In the recent court decision on summary judgment, the court decided the remaining constitutional claims (procedural due process and 1<sup>st</sup> Amendment retaliation, a claim which was added after the initial complaint) and the APA challenge to the ACO. On the counterclaims, the court decided that there were genuine issues of material fact, so those issues are currently at trial.
- On August 14, 2017, the U.S. District Court for the Northern District of Mississippi, Greenville Division, granted the EPA's motion to quash three subpoenas served on the EPA on July 25, 2017, in an ongoing private party tort lawsuit regarding the Grenada Manufacturing, LLC, facility in Grenada, MS. The EPA, in coordination with the U.S. Attorney's Office for the Northern District of Mississippi, filed its original motion on August 7, 2017, and filed a rebuttal brief to opposing counsel's response to the EPA's motion on August 11, 2017. The federal subpoenas sought testimony from three EPA employees regarding the EPA's oversight and decision making relating to ongoing RCRA corrective action at the facility. The private party lawsuit alleges environmental damages related to prior operations at the Facility. As a result of the Court order, the three EPA employees will not be required to appear for the depositions.
- On August 15, in *Sinclair Wyoming Refining Co. v. EPA* (16-9532), the 10<sup>th</sup> Circuit vacated EPA's decisions denying small refinery exemptions from the Renewable Fuel Standards (RFS) program for two Wyoming refineries. The Court found that EPA had used too strict a test to determine whether a small refinery should be exempt from the RFS program. The decision was 2 to 1. Under section 211(o)(9) of the Clean Air Act, a small refinery may petition EPA for an exemption from its RFS obligation if it can show it would experience "disproportionate economic hardship" from compliance with that obligation. After evaluating Sinclair's petitions, EPA denied both petitions as not demonstrating that these two refineries would experience "disproportionate economic hardship" from compliance with their 2014 RFS obligations. Based on what appears to be an erroneous understanding of EPA's interpretation of that provision, the court found that "EPA's interpretation falls outside the boundaries of permissible choice." The decisions have been remanded to the EPA.

**New Complaints Filed**

- Several non-governmental organizations have challenged two TSCA rules signed on June 22 -- a rule establishing the process by which EPA will prioritize chemicals for risk evaluation under the statute (prioritization rule), and a rule establishing the process by which EPA will conduct risk evaluations. Both rules were challenged in the Ninth Circuit by Safer Chemicals Healthy Families, Sierra Club, Environmental Working Group, Union of Concerned Scientists, and others. In the second suit, Environmental Defense Fund challenged the prioritization rule. In the fourth Circuit, NRDC challenged both rules. In total, the two TSCA rules have been challenged in five separate suits that have been filed in three different courts. EPA is evaluating the challenges.
- On August 17, 2017, the New York Secretary of State and Commissioner of the New York Department of Environmental Conservation filed a complaint EPA in the Eastern District of New York bringing an arbitrary and capricious challenge to EPA's December 6, 2016, designation under the Marine Pollution, Research, and Sanctuaries Act (MPRSA) of a dredged material

disposal in the Eastern Long Island Sound. Based on a variety of record-based challenges, New York seeks vacatur of the site designation. This litigation follows two notices of intent to sue filed by the State in 2016 and last month.

#### **New Petitions that OGC is Aware of**

- On August 10, 2017, WildEarth Guardians and Citizens for Biological Diversity filed a petition asking EPA to act under FIFRA to cancel and suspend the pesticide registrations for M-44 Sodium Cyanide capsules used to control coyotes. There is no statutory deadline for a response.
- EPA received a letter from Senator Inhofe to the Administrator, dated August 4, requesting that EPA address the lack of a lead test kit via rulemaking. This request relates to TSCA and the Lead Renovation, Repair, and Painting Rule (RRP). There is no statutory deadline to respond to this request for rulemaking.

#### **Upcoming Public Events & Important Meetings in the Next Two Weeks**

- Acting General Counsel, Kevin Minoli, is out of the office on August 18<sup>th</sup>, 21<sup>st</sup>, and 22<sup>nd</sup>.

#### **Upcoming Major Deadlines in the Next Two Weeks**

- 08/18 EPA's Answer is due in *Pineros y Campesinos Unidos del Norroeste, et al., v. Pruitt*, a challenge to deferral of the effective date of pesticide applicator rule.
- 08/18 Case Management Report is due in *CBD v. EPA*, a megasuit involving ESA challenges for numerous pesticide registration actions.
- 08/18 Joint Status Report due in *New Mexico v. EPA / Navajo Nation v. EPA*, CERCLA & CWA cases related to the Gold King Mine release.
- 08/21 Motion to Dismiss due in *James A. Williams, et al. v. Stephen K. Wilson, et al.* EPA is included as a named defendant for allegedly failing to intervene to halt the violations alleged in the complaint related to Plaintiff's right to nuisance-free property use and violations of civil rights.
- 08/22 EPA's Reply in Support of Motion for Abeyance due in *Green v. Pruitt*, Title V deadline suit brought by individual regarding Department of Energy's Hanford facility.
- 08/22 Status Report due in *Compsys v. EPA*, challenge by foam manufacturer to EPA's 2015 SNAP rule changing the status of HFC-134a and other substitutes to unacceptable for a variety of refrigeration and foam blowing end uses.
- 08/22 Status Report is due in *New York Coalition to End Lead Poisoning, et al. v. EPA*, a challenge to 2008's Lead Renovation, Repair, and Painting (RRP) rule's lack of coverage of public and commercial buildings. The February 2017 status report acknowledged that the Agency would not be able to meet the March 2017 deadline from the Settlement Agreement, but this August 2017 status report will be the first status report since the missed deadline.
- 08/23 Response brief is due in *City of Kennett v. EPA*, a case where the City has appealed the lower court decision dismissing its TMDL challenge for lack of standing and ripeness.
- 08/23 Summary Judgment brief is due in *U.S. v. Lipar*, a challenge to Corps' CWA § 405 enforcement action. Note that EPA is not a party to the litigation.

- 08/24 EPA's Reply in Support of Cross-Motion for Summary Judgment due in *CBD v. Pruitt*, deadline suit brought by environmental group to address state implementation of multiple fine particulate matter (PM2.5) national ambient air quality standards.
- 08/24 District court hearing in *NRDC, et al. v. Pruitt*, mandatory duty lawsuit alleging that California water rights permit decisions are new and revised CWA WQS.
- 08/25 EPA reply brief due in *Northwest Environmental Advocates v. Commerce, NOAA, and EPA*, challenge to EPA and NOAA actions and inaction with respect to Washington nonpoint source programs.
- 08/25 EPA's reply brief due in *United States, et al. v. Luminant Generation Co. LLC, et al.*, appeal of adverse decision in PSD enforcement case. DOJ plans to request an extension until Sept. 8.
- 08/25 Status Conference in *CBD v. EPA*, megasuit ESA challenges for numerous pesticide registration actions.
- 08/25 Answer due in *Gulf Restoration Network v. Pruitt, et al.*, a suit against the Natural Resource Damage Assessment (NRDA) Trustees (including EPA), arguing that the decision to select the Gulf State Park project was arbitrary and capricious because the trustees failed to comply with the applicable Oil Pollution Act (OPA) and National Environmental Policy Act (NEPA) statutory and regulatory requirements.
- 08/28 Consent Decree deadline in *Citizens for Clean Air v. EPA* to sign a notice or notices of final rulemaking on its proposal to approve, disapprove, or conditionally approve, in whole or in part, the Fairbanks 2015 PM2.5 Plan pursuant to section 110 of the CAA.
- 08/29 Opposition to State of Arizona's Petition for Certiorari in *Bahr, et al. v. EPA*, rejecting EPA's long-standing interpretation of the CAA to authorize states to meet the contingency measure requirement with "early triggered" control measures.
- 08/29 Oral argument in *U.S. v. Robertson*, appeal relating to criminal convictions under Clean Water Act. EPA is not a party.
- 08/30 Plaintiffs to file proposed remedy in *NWEA v. EPA*, following adverse decision in NWEA's challenge to EPA approval of temperature TMDLs based on vacated WQS and without ESA consultation, court ordered NWEA (after consulting with EPA) to propose a remedy.
- 08/30 Reply in support of Motion to Dismiss in *Blue Water Baltimore v. EPA*, challenge to EPA's denial of petition asking EPA to exercise its residual designation authority to require NPDES permits for commercial, industrial, and institutional sources of stormwater in Baltimore's Back Bay watershed.
- 08/31 EPA Brief in *Natural Resources Defense Council, et al. v. EPA*, petition for review of EPA's final CAA action titled "Treatment of Data Influenced by Exceptional Events."
- 08/31 EPA Reply in Support of Motion to Stay Discovery in *Valero Energy Corporation v. EPA*, for failure to perform non-discretionary duties which relate to defining the obligated party for the RFS program.

- 08/31 Consent Decree deadline in *Center for Biological Diversity, et al. v. EPA*, (deadline suit for failure to submit and failure to act on 1997 & 2008 ozone attainment SIPs) to sign a notice of final rulemaking to take action on an outstanding SIP submittal for Los Angeles-South Coast Air Basin, CA.
- 08/31 Consent Decree deadline in *Center for Biological Diversity, et al. v. EPA*, No. 4:16cv4092 (ND CA) (deadline suit for failure to submit and failure to act on 1997 & 2008 ozone attainment SIPs to Sign a notice of final rulemaking to take action on an outstanding SIP submittal for Riverside County (Coachella Valley), CA for NOx RACT for Major Sources and VOC RACT for Major Sources
- 08/31 Mediation call in *Ellis v. Keigwin*, challenge under ESA and FIFRA to registrations of clothianidin and thiamethoxam. The court previously ruled on liability, and ordered mediation on remedy before court addresses remedy.
- 09/01 EPA's reply in support of its motion to hold the Utah regional haze litigation in abeyance in *State of Utah, et al. v. EPA*.
- 09/01 Consent Decree deadline in *Center for Biological Diversity, et al. v. EPA*, to take final action on 4 elements of the Idaho SIP submission addressing requirements for the Logan moderate nonattainment area under the 2006 24-hour PM2.5 NAAQS.

**OFFICE OF CONGRESSIONAL AND INTERGOVERNMENTAL RELATIONS****Upcoming Hot Issues and Important Deadlines**

- **September 5** Senate in Recess until
- **September 5** House in Recess until
- **TBD** - Senate Environment and Public Works Committee Hearing on the President's FY 2018 Budget – Agency witness: Administrator Pruitt

**Upcoming Events**

- **September 12-14** The Mississippi Rivers Cities and Towns Initiative will host its 6<sup>th</sup> Annual Meeting in St. Louis, MO. The Annual Meeting is co-hosted with the National Caucus of Environmental State Legislators. Twenty-four state legislators are expected from the ten state Mississippi River corridor.
- **September 29** Mayor Debora Fudge, Mayor of Windsor, CA will meet with the EPA. OIR will continue to work with the city's Washington representative to secure additional information on the city's projects of interest for the meeting with headquarters Program and Region IX staff.

**Past Week Accomplishments**

- **August 16** OAR staff briefed Rep. Reed's staff regarding glider kit regulations
- **August 16** OAR staff briefed Senator Carper's staff on RFS fuel pathways.
- **August 17** Webinar on Solutions to Drinking Water Emergencies
- **August 17** Ken Wagner, Senior Advisor to the Administrator on State and Regional Affairs, participated in the Region 10 Environmental State Directors Meeting. ECOS and Region 10 discussed cooperative federalism, FY 18 budget, cross-border issues, and ocean acidification
- **August 18** Sue and Settle meeting with HEC, Judiciary and HOCR

**Ongoing Activities**

- Continue to coordinate responses to multiple oversight letters, congressional and gubernatorial correspondence, and FOIA requests. We closed out 27 letters during the previous two weeks. We received 3 FOIA's this week.
- The OIR team is finalizing the PPG Capacity Analysis project outline and will begin a preliminary analysis to identify PPG baseline metrics to determine each state and regions' capacity. The team plans to establish these metrics by late July.
- OMB asked for comment on S.1460 the *Energy and Natural Resources Act of 2017*. The bill is the successor to Sen. Murkowski and Sen. Cantwell's legislation from the previous Congress. This bill was placed directly on the Senate Calendar for expedited floor consideration. It has 11 titles ranging from energy efficiency to conservation to infrastructure to Native American energy.
- We are working on a request from CBO about questions on HR3053 Nuclear Waste Policy Amendments Act of 2017

**OFFICE OF POLICY****Documents Submitted to OFR August 11, 2017 – August 17, 2017**

<b>FRL</b>	<b>Title</b>	<b>Date Submitted to OFR</b>
9966-60-Region 7	Approval of Iowa's Air Quality Implementation Plan; Muscatine Sulfur Dioxide Nonattainment Area	8/17/2017
9966-66-Region 4	Air Plan Approval; Georgia: Permit Exemptions and Definitions; Withdrawal	8/16/2017
9963-98-OCSP	Poly(oxy-1,2-ethanediyl), $\alpha$ -isooctyl- $\omega$ -hydroxy; Exemption from the Requirement of a Tolerance	8/16/2017
9965-65-OA	Proposed Information Collection Request; Comment Request; Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency (Renewal); EPA ICR No. 2260.05, OMB Control No. 2090-0029	8/16/2017
9966-63-OAR	National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry: Alternative Monitoring Method	8/16/2017
9966-64-OAR	National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry: Alternative Monitoring Method	8/16/2017
9964-28-OCSP	Product Cancellation Order for Certain Pesticide Registrations	8/16/2017
9964-27-OCSP	Product Cancellation Order to Voluntarily Cancel Certain Pesticide Registrations and Amend Registrations to Terminate Certain Uses	8/16/2017
9964-21-OCSP	Potassium salts of naphthalenesulfonic acids formaldehyde condensates; Exemption from the Requirement of a Tolerance	8/16/2017
9966-26-OAR	National Emission Standards for Hazardous Air Pollutants: Manufacture of Amino/Phenolic Resins	8/15/2017
9966-58-Region 7	Air Plan Approval; Iowa; Amendment to the Administrative Consent Order, Grain Processing Corporation, Muscatine, Iowa	8/14/2017
9966-59-Region 7	Air Plan Approval; Iowa; Amendment to the Administrative Consent Order, Grain Processing Corporation, Muscatine, Iowa	8/14/2017

9966-61-OAR	Relaxation of the Federal Reid Vapor Pressure (RVP) Gasoline Volatility Standard for Shelby County (Memphis), Tennessee	8/14/2017
9966-62-OAR	Request for Comment on Reconsideration of the Final Determination of the Mid-term Evaluation of Greenhouse Gas Emissions Standards for Model Year 2022-2025 Light-duty Vehicles; Request for Comment on Model Year 2021 Greenhouse Gas Emissions Standards	8/14/2017
9965-04-OEI	Plywood and Composite Wood Products National Emission Standards for Hazardous Air Pollutants (NESHAP) Risk and Technology Review (RTR); ICR 2552.01	8/14/2017
9965-96-OCSPP	Negotiated Rulemaking Committee; Chemical Data Reporting; Requirements for Inorganic Byproduct Chemical Substances; Notice of Public Meetings	8/14/2017
9964-76-OCSPP	Community Right-to-Know; Adopting 2017 North American Industry Classification System (NAICS) Codes for Toxics Release Inventory (TRI) Reporting	8/14/2017
9964-77-OCSPP	Community Right-to-Know; Adopting 2017 North American Industry Classification System (NAICS) Codes for Toxics Release Inventory (TRI) Reporting	8/14/2017
9966-18-Region 4	Air Plan Approval; Alabama; Regional Haze Plan and Prong 4 (Visibility) for the 2012 PM2.5, 2010 NO2, 2010 SO2, and 2008 Ozone NAAQS	8/11/2017
9965-54-OCSPP	Pesticides; Technical Amendment to Data Requirements for Antimicrobial Pesticides	8/11/2017
9964-40-OCSPP	Prothioconazole; Pesticide Tolerances	8/11/2017
9964-53-OCSPP	Fatty acids, rape-oil, triesters with polyethylene glycol ether with glycerol (3:1); Tolerance Exemption	8/11/2017
9964-94-OCSPP	1-Triacontanol; Exemption from the Requirement of a Tolerance	8/11/2017
9966-48-Region 4	Air Plan Approval; South Carolina: Minor Source Permit Program Revisions	8/11/2017
9966-45-Region 4	Air Plan Approval; Alabama; Cross-State Air Pollution Rule	8/11/2017
9966-46-Region 4	Air Plan Approval; Alabama: PSD Replacement Units	8/11/2017
9966-47-Region 4	Air Plan Approval; Alabama: PSD Replacement Units	8/11/2017



## OFFICE OF RESEARCH AND DEVELOPMENT

I'll be heading to Seattle next week for the Tenth World Congress on Alternatives and Animal Use in the Life Sciences. I'm co-chairing the Congress, along with Dr. Elaine Faustman from the University of Washington and Dr. Joanne Zurlo of Johns Hopkins University, and I'm looking forward to seeing what I think will be a very strong program. While I'm in Seattle, Chris Robbins will be in DC, in part for the Lean Advisory Board meeting. Bruce Rodan and Richard Yamada will travel to Cincinnati to meet with our staff there and to attend the Small Drinking Water Systems workshop. Later in the week they will meet with Region 3 and their states to discuss their research needs as well as a number of other topics important to the states.

### Hot Issues

**CyAN collaboration Provides Early Detection Utah Cyanobacteria Bloom:** Early detection of toxic algal blooms is now possible based on satellite imagery from the [ [HYPERLINK "https://www.epa.gov/water-research/cyanobacteria-assessment-network-cyan"](https://www.epa.gov/water-research/cyanobacteria-assessment-network-cyan) ] (CyAN), a multiagency project involving EPA, NASA, NOAA, and USGS. Collaborators from EPA, NOAA and the State of Utah sought satellite access early this year after severe cyanobacteria blooms took place in the state during 2016. A week after the state's routine monthly sampling, CyAN detected a bloom developing in Utah Lake's Provo Bay before officials on the ground knew it. Follow-up sampling results prompted the state to quickly issue a cyanobacteria bloom advisory, warning the public and their pets to stay away. Local media noted the public benefit due to the speed and accuracy of detection using satellite imagery. [ [HYPERLINK "https://apnews.com/5135421651c14925a6d5f62c31bd05a6/Researchers-creating-warning-system-for-toxic-algae-in-lakes"](https://apnews.com/5135421651c14925a6d5f62c31bd05a6/Researchers-creating-warning-system-for-toxic-algae-in-lakes) ]

**CyAN Mobile App Provides Early Detection Data to Army Corps of Engineers and Region 4:** CyAN is also providing U.S. Army Corps of Engineers in Lake Okeechobee, Florida, along with other CyAN collaborators in EPA Region 4, daily cyanobacteria data from the Sentinel-3 OLCI satellite through the CyAN mobile application. Preparations are underway to switch the mobile application testing to current Sentinel-3 OLCI data for the continental U.S. in the coming weeks.

**Technical Support on GenX in Cape Fear Basin:** On August 15, at the request for Region 4, ORD scientists participated in a call with representatives from local governments in North Carolina to discuss treatment options for GenX and other per- and polyfluoroalkyl substances (PFASs) at drinking water utilities in Cape Fear, NC. Participants on the call included North Carolina Department of Environmental Quality; Pender County (NC) Health Director; and the Cape Fear Public Water Utility. Participants agreed to share information on ongoing projects related to the drinking water utilities in Cape Fear, and to look for opportunities to collaborate further.

**ORD prepares next report on Cape Fear Basin PFAS analysis for NC DEQ:** ORD is currently preparing its third report on the laboratory PFAS results from North Carolina Department of Environmental Quality (NC DEQ) Cape Fear Basin sampling for NC DEQ. This report will include results for GenX from the sampling for weeks 6 and 7, along with preliminary findings from ORD's non-targeted analysis. ORD brief NC DEQ and EPA Region 4 on the report on Tuesday, August 22<sup>nd</sup>.

**Lead Service Line Identification Project in Illinois:** At the request of Region 5, ORD has been working with the City of Galesburg, Illinois EPA, and Region 5 on lead service line (LSL) identification in Galesburg. The project is part of the Flint response to address the national issue of helping systems and individuals locate LSLs. Galesburg has had historical lead action level exceedances, and has implemented phosphate-based corrosion control treatment, public education, and LSL replacement. On August 10, the first round of sampling results indicated elevated lead levels. On August 11, notification of the sampling

results and recommendations to use/or installation of point-of-use filtration devices was sent to the City. The LSL identification project, which also includes Flint, MI, is ongoing.

**ORD Assists Ohio EPA with bromide and drinking water treatment:** ORD scientists and OW are working with Ohio EPA's Division of Drinking and Ground Waters to provide technical assistance to small drinking water utilities facing challenges in meeting the regulated maximum contaminant levels for total trihalomethanes (TTHMs). TTHMs are disinfection byproducts of chlorine. ORD is offering technical expertise on disinfection byproduct formation and distribution system modeling and discussing options, including changes to disinfection practices and distribution system operation. ORD plans to meet with Ohio EPA at the EPA Small Systems Drinking Water Workshop in Cincinnati.

**Technical Assistance in Flint, MI:** On August 15 ORD scientists met with the water treatment plant operator in Flint, MI to conduct pipe rig maintenance, removing lead pipe sections that were installed at the plant in February 2016. ORD will evaluate scale layer formation on the pipes. ORD has trained the plant operator and staff from the Michigan Department of Environmental Quality to record weekly flow readings from the pipe loop rigs and perform maintenance when needed. On August 17, ORD scientists are meeting with Region 5 representatives to discuss the water quality outlook in Flint, MI.

**Atmospheric Water Generation CRADA with WaterGen:** In response to a request from the Administrator, ORD initiated a series of discussions with EPA OW and the Administrator's staff to identify research objectives for evaluating the broader use of AWG technologies. Currently the statement of work and CRADA are being finalized. ORD estimates that the research could be completed in 3-6 months. Representatives from WaterGen will be visiting EPA labs in Cincinnati on August 17 and 18 to tour the facilities and discuss the technical aspects of the evaluation of WaterGen's AWG system.

**Kansas-EPA Collaboration:** In response to a request by the Kansas Department of Health and Environment, ORD and Region 7 discussed a joint-pilot project with Kansas to better understand and address state needs. EPA, USGS, and the state of Kansas will collaborate on Milton Lake HABs sampling and analysis later this month.

#### Upcoming Public Events

**Alternative to Animal Testing World Congress Meeting:** ORD scientists will participate in the Tenth World Congress on Alternatives and Animal Use in the Life Sciences on August 20-24 in Seattle, where they will share EPA's scientific advances in developing alternative, non-animal testing approaches for chemicals. EPA's research will be shared through presentations by ORD scientists, including a plenary presentation entitled "A New Tox21 Strategic Plan and the Integration of EPA Science," Exposure-Based Screening and Priority-Setting", posters, and an exhibit booth where scientists will provide live demonstrations of EPA's online tools and meeting participants can learn more about EPA's research.

**Small Drinking Water Systems Workshop Next Week:** As of August 15, there are 340 registered participants, of which 140 have registered for the training session, *Optimal Corrosion Control Treatment*, to be held at the end of the workshop. Richard Yamada and Bruce Rodan will be attending the workshop.

**EPA Tools and Resources Webinar:** On August 23, ORD will host its monthly public webinar for states, tribes and others highlighting the National Stormwater Calculator (SWC), a resource to help support local, state and national stormwater management objectives and regulatory efforts to reduce runoff through infiltration and retention using green infrastructure (infrastructure based on natural processes) practices as low impact development controls.

**Chinese delegation to visit EPA Cincinnati:** During the week of August 21, representatives from the Chinese Academy of Sciences' Research Center for Eco-Environmental Sciences (CAS/RCEES) and Chinese Academy of Urban Planning and Design under the Ministry of Housing, Urban and Rural Development (MoHURD/CAUPD) will be visiting Cincinnati. Attendees will review the status and plans for ongoing research in the bilateral cooperative project, "Sustainable Development of Water Supplies." This project is an MOU between EPA, China's Ministry of Science and Technology, CAS/RCEES, and MoHURD/CAUPD.

### **Last Week Highlights**

**Smoke Sense Study and Mobile App Updates:** EPA's Smoke Sense Study and mobile app has had an initial strong response from the public, with more than 1200 new users since the app was launched on Google Play Store on August 1. Coverage of the wildfire smoke study includes an article posted in the next issue of Wildfire magazine, a publication of the International Association of Wildland Fire, and [ [HYPERLINK "http://www.wenatcheeworld.com/news/2017/aug/05/epa8217s-new-mobile-app-tracks-impacts-from-smoke/"](http://www.wenatcheeworld.com/news/2017/aug/05/epa8217s-new-mobile-app-tracks-impacts-from-smoke/) ] in the state of Washington, which is experiencing poor air quality from wildfires in British Columbia. The study is the first of its kind to use a mobile app to evaluate the health effects from wildland fires, and to test whether an app is an effective tool to inform the public about the health risks of wildland fire smoke.

**ORD Project Provides Public Access to Fathead Minnow Genomes helping Communities Predict Toxicity of Chemicals on Aquatic Environments:** ORD toxicologists have released first draft annotations of the fathead minnow genome, dramatically expanding the scope of genome-level information for one of the most widely used organisms in North America for aquatic toxicity testing. Gene predictions were made accessible to the public and scientific community via an interactive genome browser hosted in partnership with the Society of Environmental Toxicology and Chemistry ([ [HYPERLINK "http://www.setac.org/fhm-genome/"](http://www.setac.org/fhm-genome/) ]). Understanding the fathead minnow genome ultimately provides decision makers with the information they need to more quickly and cost effectively take action to protect the local aquatic environment.

**Material Management Wizard (MWiz) Now Final:** The final version of EPA's Materials Management Wizard (MWIZ) is live ([ [HYPERLINK "https://cfpub.epa.gov/mwiz/"](https://cfpub.epa.gov/mwiz/) ]). MWiz provides easy access to a repository of EPA-sourced materials management tools and resources to support and promote sustainable materials management and community planning decisions. The tools and resources available through MWiz help users analyze problems, understand management options, calculate design parameters, analyze costs and benefits, evaluate tradeoffs, engage stakeholders, and/or develop education and outreach campaigns.

### **ORD Published [ [HYPERLINK](https://cfpub.epa.gov/si/si_public_record_report.cfm?dirEntryId=337163&fed_org_id=1253&subject=Homeland%20Security%20Research&view=desc&sortBy=pubDateYear&showCriteria=1&count=25&searchall='indoor%20outdoor%20decontamination')**

["https://cfpub.epa.gov/si/si\\_public\\_record\\_report.cfm?dirEntryId=337163&fed\\_org\\_id=1253&subject=Homeland%20Security%20Research&view=desc&sortBy=pubDateYear&showCriteria=1&count=25&searchall='indoor%20outdoor%20decontamination'"](https://cfpub.epa.gov/si/si_public_record_report.cfm?dirEntryId=337163&fed_org_id=1253&subject=Homeland%20Security%20Research&view=desc&sortBy=pubDateYear&showCriteria=1&count=25&searchall='indoor%20outdoor%20decontamination') ]: A survey of commercially-available or fielded equipment was conducted and resulted in three pieces of identified equipment that could be used or rapidly modified for use in supplying liquid chemicals to decontaminate surfaces following a biological contamination incident. This effort aims to improve the capability for transit systems to quickly and efficiently recover from a biological contamination incident by refining existing methods, tools and protocols for characterization, clean-up, and clearance of contamination in physical structures (i.e., tunnels, stations) and rolling stock (i.e., subway trains).

**Green Infrastructure-St. Louis, MO:** ORD participated in a call with Region 5 and the City of St. Louis to discuss the city's large-scale plans for vacant lot/building demolition and urban watershed management planning. ORD will coordinate with the National Center for Infrastructure Modeling and Management and will provide technical assistance on urban soil replenishment for managing storm water.

**Improving Health and Well-being in Denver's Poorest Neighborhood:** ORD is working with the University of Colorado-Denver's College of Architecture and Planning (UCD) in a collaborative research project to public health and the environment for residents of the Sun Valley neighborhood—a public housing area where the median annual income is just \$9,000. In July 2017, Denver Housing Authority and Sun Valley EcoDistrict received a \$30 million HUD grant to redevelop Sun Valley. Agency scientists will be measuring indoor air quality and will be using EPA's Human Wellbeing Index—an integrated measure for evaluating the influence of social, economic and environmental service flows on human wellbeing—to inform redevelopment plans that will revitalize the community.

**Support for California Department of Toxic Substances Control:** The California Department of Toxic Substances Control (DTSC) requested ORD assistance to learn how to integrate Health Impact Assessment and community structured decision making approaches into their hazardous substance decision process. Future support and collaboration opportunities are currently under discussion. This effort is a follow-up to the contributions ORD staff made during a DTSC-hosted seminar in July, "to improve the Department's permitting process..." and consideration of "...additional criteria to address community concerns when making permit decisions."

**OFFICE OF INTERNATIONAL AND TRIBAL AFFAIRS****Hot Issues**

None

**Upcoming Engagements**

August 21 – Meeting with Secretary Pacchiano in Mexico City – cancelled, but to be rescheduled.

August 21 – Commission for Environmental Cooperation (CEC) call with Mexico and Canada.

August 25 – EPA Tribal Call on the FY19 Budget

**Past Week Highlights**

**EPA Senior Leadership Tribal Meetings:** Members of EPA’s senior leadership team – Kell Kelly, Ken Wagner, Sarah Greenwalt, Sam Coleman and Jane Nishida - met with tribal leaders from the National Tribal Caucus, Tribal Waste and Response Assistance Programs Steering Committee, National Tribal Water Council, Tribal Science Council, and the Institute for Tribal Environmental Professionals. This meeting was held on the margins of the Tribal Lands and Environment Forum (TLEF) in Tulsa and was an opportunity for the various tribal groups to discuss tribal priorities with the new EPA leadership team. The topics that were discussed included the role of tribes under cooperative federalism, the reaffirmation of the 1984 Indian Policy, and convening the National Tribal Operations Committee (NTOC). EPA’s American Indian Environmental Office (AIEO) also held a panel discussion at the TLEF with AIEO Acting Director Felicia Wright, National Tribal Caucus (NTC) Chair Evaristo Cruz, and Environmental Council of States (ECOS) Executive Director Alex Dunn. The purpose of the panel was to discuss AIEO’s role in working with the tribes and how federal, state and tribal governments can work together under the theme of cooperative federalism.

**EPA Hosts Morocco Delegation:** EPA hosted a delegation from Morocco focusing on clean and efficient energy ecosystem development who were visiting under the State Department’s International Visitor Leadership Program. OAR experts met with the delegation and discussed EPA’s state and local energy and environment programs as well as Green Power programs. OITA discussed EPA’s new workplan with Morocco that will facilitate several capacity building activities, including workshops and a pilot project on solid waste management, public participation and crisis communication. EPA (Region 3 and OITA) is also collaborating with the Morocco Ministry of Energy, Mines, Water & Environment and the Ministry of Interior to conduct a workshop on the Principles of Solid Waste Management in the fall.

**Global Lead Paint Alliance:** EPA (OITA and OCSPP) met with the Secretariat of the Global Lead Paint Alliance – UN Environment and the World Health Organization – to review the Alliance’s activities and discuss strategic next steps to promote lead paint laws globally. The participants agree that momentum is building and that the priority focus of the Alliance is to promote the establishment of lead paint laws by governments. Other topics discussed included the development of a Global Environment Facility-funded project, the finalization of a model law for establishing lead paint regulations and standards, and other tools to promote the importance of eliminating lead paint. And thanks to OGC, the American Bar Association Resolution on Lead Paint was passed unanimously by the ABA House of Delegates on August 14.

**OFFICE OF LAND AND EMERGENCY MANAGEMENT****Hot Issues**

1. **CCR State Permit Program Guidance.** On August 10, the interim final guidance was released. EPA will accept public comments for 30 days following its Aug 15th publication in the Federal Register.
2. **Mississippi Phosphates Corp. Site (Pascagoula, MS).** Recent significant site stability issues have created the need to move toward a closure approach for the site's East Gypstack. R4, OLEM and OECA held a discussion on August 16 to discuss a path forward. As the closure will most likely eliminate any potential re-use of the site as a fertilizer production facility, OECA committed to working with DOJ to seek clarification regarding how the site's time critical situation might affect the current potential buyer's interest.
3. **CERCLA 108(b) Financial Assurance for Hard Rock Mining and Mineral Processing.**
4. **Clean Air Act 112(r) Risk Management Program Rule.**
5. **Hanford Record of Decision (ROD).** See below.
6. **Other ongoing major Superfund sites (for example, East Chicago, West Lake, Gold King mine/Bonita Peak, Hudson River, Portland Harbor).**
7. **CERCLA-EPCRA AFO-CAFO Rule.**
8. **Definition of Solid Waste (DSW).** We are working with OGC to follow up on the DC Circuit's decision.
9. **General Electric Financial Assurance template.** We are conferring with the AO regarding this technical assistance requested by state staff.

**Upcoming Public Events**

1. **Glacier Rail Park Groundbreaking.** On August 22, OLEM will participate in this USDOT TIGER grant project event in Kalispell, MT.

**Upcoming Major Decisions**

1. **Hanford ROD.** We are working with Region 10 and the AO in preparation to brief the Administrator, targeted for in mid-September.
2. **CERCLA-EPCRA AFO-CAFO Rule.** We are conferring with the AO on next steps.
3. **E-Manifest User Fee Final Rule.** The rule package is with OMB.
4. **RMP Modernization Rule Reconsideration.** OLEM, OGC, and the AO are conferring on next steps and schedule.

**Last Week Highlights**

1. **Tribal Lands and Environment Forum.** OLEM representatives participated in this forum the week of Aug 14, in Tulsa, OK.
2. The **30-day Gold King Mine report** was transmitted to the Hill on Aug. 15<sup>th</sup>.

**OFFICE OF THE CHIEF FINANCIAL OFFICER****Hot Issues**

- The House of Representatives will vote on a eight bill appropriations bill the week of September 4<sup>th</sup>. This bill will include the FY 18 House Appropriations Committee approved measure that funded the EPA at \$7.52 billion on July 18<sup>th</sup>.
- Upcoming regional/state meetings (dates listed below) are planning to include a state discussion on the role of the “E-Enterprise Regional Coordinators.” Discussing the topic at the summer regional/all-state meetings provides states (beyond solely EELC members) the opportunity to share and provide feedback on the role and responsibilities of the regional position. OEE is coordinating with OCIR, Regions (DRAs), and ECOS to facilitate the conversation and provide support (presentation materials).
  - R10: August 17 (Meeting includes Canada, not just states and EPA; therefore, no specific session on E-Enterprise).
  - R3: August 24<sup>th</sup> (Ben Grumbles/MD presenting)

**Upcoming Public Events**

- The Combined Air Emissions Reporting (CAER) project will have a half-day session at the International Emissions Inventory Conference August 14-18<sup>th</sup> in Baltimore, MD. ECOS is coordinating an E-Enterprise booth at the exhibit hall during this event. This is a follow-on to our April 5, 2017 Engagement, where industry and states asked for further outreach at other events.

**Upcoming Major Decisions**

- The Senate Appropriations Subcommittee on Interior, Environment and related Agencies tentatively plans to mark-up their version of the FY 18 Appropriations Bill the week of September 17<sup>th</sup>.
- In response to a Senate Appropriations Subcommittee request, OCFO is currently reviewing policy and funding capability/impact statements on a number of issues. OCFO will coordinate review with the Policy Team, Chief of Staff, and OGC prior to finalizing and submitting to Senate Subcommittee staff by the end of August.
- OCFO continues to work with the appropriate NPMs, OGC, OCIR and the Policy Team to review responses to the Senate Appropriations Committee Questions for the Record (QFRs). When ready, OCFO will submit responses to OMB for approval prior to transmittal to the Hill. These responses will be inserted into the Senate hearing record and available to the public.
- Based on agency senior leader Red-Flag Review, OCFO revised Draft FY 2018-2022 EPA Strategic Plan narratives, which were provided to the policy team to initiate its review of overall messaging (August 17-31). Also sending notification letters to tribal leaders on the opportunity for consultation.
- Meetings underway with Assistant Deputy Administrator and agency senior leaders to discuss strategic measures as basis for advancing Administrator’s priorities for strategic goal/objectives in new Strategic Plan. Strategic measures will inform development of annual budget measures for inclusion in EPA’s FY 2019 OMB Submission. Target date for agreement on strategic and budget measures, as well as FY 2018-2019 Agency Priority Goals is August 30.
- Based on Assistant Deputy Administrator feedback, OCFO finalizing FY 2017 Q3 Quarterly Performance Report and issuing to the Administrator early in the week of August 21.

- The Assistant Deputy Administrator, Acting Deputy Administrator, OCFO and OITA senior leaders are hosting teleconferences on August 25 with National Tribal Caucus officials and on August 29 with ECOS officers and executive committee members to get their input on EPA's FY 2019 Budget.

#### **Last Week Highlights**

- Scott Thompson, OK DEQ Executive Director, Micco Emarthla, Seneca-Cayuga Nation, and Andy Battin presented E-Enterprise for the Environment on August 17<sup>th</sup> at the Tribal Lands Environment Forum (TLEF) in Tulsa, OK. The purpose of this presentation was to provide background, highlight projects that are being led by tribes, and further broaden tribal participation in E-Enterprise. The session was followed by a presentation on the EPA/State/Tribal Exchange Network.
- On August 11, OCFO issued Over-Target guidance for Long Term Efficiency and Program Effectiveness to support the Agency's over-target request as part of the FY 2019 OMB Submission. Lead programs will meet and develop proposals. Due August 25.
- OCFO transmitted the Animas River Spill (Gold King Mine) status of reimbursement requests report to Congress on Monday, August 14, 2017. (Directed by the FY 2017 Omnibus Consolidated Appropriations Act).

#### **Other**

- OCFO organized OMB briefings on the SF Task Force Report and recommendations on August 16<sup>th</sup> and 17<sup>th</sup>. The briefings discussed recommendations impacting private and federal sites, the EPA's strategy moving forward, potential policy changes, and the Top Ten List.



**OFFICE OF WATER****Hot Issues**

Proposed Rule to Establish Aluminum Aquatic Life Criteria for the State of Oregon: Next week, we anticipate the Proposed Rule to establish aquatic life criteria for aluminum in Oregon will be submitted to OMB for review. The proposed criteria for Oregon are based on the draft CWA 304(a) criteria recommendation for aluminum that was published in the FR on July 28, 2017. These criteria are based on the latest scientific research and will protect aquatic life from the harmful effects of exposure to toxic levels of aluminum. The Agency is under a 2016 consent decree to propose criteria for Oregon by December 15, 2017.

Steam Electric ELG: This week, the Agency filed a motion with the U.S. Court of Appeals for the 5th Circuit to allow the agency to conduct a rulemaking to reconsider certain requirements and standards in the 2015 Steam Electric Power Plant Effluent Guidelines Rule. Next week, OW anticipates submitting to OP for OMB review the final rule to postpone the compliance dates for bottom ash transport water and flue gas desulfurization (FGD) wastewater. Our understanding is that OMB review could be brief with the goal of producing a final rule for Administrator's signature towards the end of August.

Waters of the US: This week, OW and the Army signed a notice extending the public comment period of the step 1 proposal for 30 days. The comment period will now end on September 27. A pre-publication version of the notice was posted on our website and notifications were made to the Hill and key stakeholder associations. In addition, EPA and Army staff participated in a coordination meeting with tribal representatives at the Tribal Lands and Environment Forum in Tulsa on August 16. The EPA team is working toward initiating a series of general outreach webinars in mid-September and a small entities in-person meeting in October.

Perchlorate Peer Review Process: This week, with OMB's support, we distributed for final review to our federal partners, the revised charge for peer reviewers as part of the next steps on perchlorate. This comes after a successful meeting with the federal agencies earlier this month where they expressed appreciation for our efforts to be fully responsive to their suggested edits to the charge. Comments are requested by August 18, after which, we will work to prepare the revised draft charge, a revised draft report, and the draft list of peer reviewers for public comment.

Bristol Bay: This week, the Agency received a request from the United Tribes of Bristol Bay (representing 14 Bristol Bay tribes) for a consultation with all 14 tribes here in DC. We will work with Region 10 and AIEO address this request and prepare a response. In addition, we will be notifying tribes that the 90-day tribal consultation period currently set to end on October 11 will be extended by 6 days to align with the October 17 end of the 90-day public comment period.

**Upcoming Public Events**

Association of Clean Water Administrators (ACWA) Annual Meeting: Next week, Benita Best Wong will speak at the ACWA 2017 Annual Meeting.

EFAB Summer Meeting: Next week, I will chair, as the Designated Federal Official, the Environmental Financial Advisory Board (EFAB) meeting in Kansas City, KS. EFAB is an advisory committee chartered under the Federal Advisory Committee Act to provide advice and recommendations to EPA on creative approaches to funding environmental programs, projects, and activities.

**Last Week Highlights**

Support for Water Systems and States: This week, the Drinking Water program hosted a Multi-Regional Capacity Development and Operator Certification Workshop. The workshop included over 20 state and technical assistance provider presentations. Workshop attendees represented 21 states and 1 territory and 6 technical assistance provider associations. The workshop covered collaboration across state drinking water programs and state examples of supporting water system infrastructure funding. The workshop concluded with states providing feedback on possible actions for EPA to consider for supporting water system infrastructure planning and compliance with drinking water standards.

## OFFICE OF CHEMICAL SAFETY AND POLLUTION PREVENTION

TSCA New Chemicals Determinations			
Determination Type	Pending on 8/15/2017	Determinations Completed* as of 8/15/2017	Determinations Posted on the Website as of 8/15/2017
# of "not likely" determinations	1	101*****	101****
# of §5(e) Orders signed by both EPA and the submitter	-	252	248
# of §5(e) Orders signed by EPA and awaiting submitter signature	78	-	-
# of cases in Order development process	235***	-	-
# of cases flagged for in-depth review	48	-	-
# of PMNs, SNUNs and MCANs awaiting FOCUS (within 90-day review)	16	-	-
# of LVE/LOREX exemption grants	-	439	431*****
# of LVE/LOREX exemption denials	-	103	90*****
<b>Total number of cases</b>	<b>378</b>	<b>895</b>	<b>-</b>
Normal active workload for the New Chemicals Program	300	-	-
Number of cases undergoing testing or data development by submitter	79	-	-
<b>Backlog**</b>	<b>-1</b>	<b>-</b>	<b>-</b>

\*"Determinations Completed" means that EPA has completed its reviews on these cases and that final determinations have been made by EPA under TSCA section 5(a)(3).

\*\* (Total number of cases) – (Normal active workload for the New Chemicals Program) - (Number of cases undergoing testing or data development) = Backlog

\*\*\* Of these cases, approximately 76 are "active" lung toxicity cases that are suspended while submitters conduct testing to develop data on pchem properties and toxicity.

\*\*\*\* "Not Likely" determinations are not posted until the final determination document is prepared and has been shared with submitter.

\*\*\*\*\* Previous editions of this table included cases for which either an interim or a final determination of "not likely" had been made. This edition only includes cases for which a final determination has been made.

\*\*\*\*\* Different criteria had been used in editions of this table prior to May 23, 2017, for the counting of exemptions for "determinations completed" and "determinations posted." These have now been standardized.

### Hot Issues

**Reports of Crop Damage from Use of the Pesticide Dicamba.** The Office of Pesticide Programs is continuing to lead efforts to assess and understand reported damage to non-target crops from the use of dicamba to control weeds in genetically-modified cotton and soybeans. On August 8 and August 15, OPP met with Monsanto and BASF to discuss possible solutions to address the unacceptable damage. Monsanto and BASF are the primary companies that market these dicamba products for “over-the-top” applications in-season. The two companies have now agreed to additional restrictions for dicamba, to be implemented in time for the 2018 growing season. These additional restrictions include: limiting applications to times when wind speeds are below 10 miles per hour, limiting the time of day during which applications can occur, lowering tractor speeds during applications, and reclassifying these products as “restricted use pesticides.” The reclassification of these products as “restricted use pesticides” will enable the states to mandate specific training for the proper use of these products and require that farmers maintain specific records regarding the use of these products, which will aid the states in any follow-up investigations they may need to conduct.

By August 23, OPP expects to complete a consultation with the state agriculture departments regarding these new restrictions. EPA will continue to work with Monsanto and BASF to make the necessary changes to these registrations. EPA expects to be able to announce by the end of August an “agreement in principle” for these new restrictions, which will allow farmers to make informed choices for seed purchases for the 2018 growing season.

### Upcoming Decisions

**Chemical Data Reporting Negotiated Rulemaking Committee (Committee) Membership Changes.** OCSPP is seeking to appoint two new members to the Chemical Data Reporting Negotiated Rulemaking Committee (Committee) – one to replace an appointed member who has stepped down, and another to broaden the Committee’s representation to include the tribal community. The Committee will negotiate a proposed rule that would limit chemical data reporting requirements under section 8(a) of the Toxic Substances Control Act (TSCA) for manufacturers of any inorganic byproduct chemical substances, when such byproduct chemical substances are subsequently recycled, reused, or reprocessed. The purpose of the Committee, as required under the 2016 amendments to TSCA, is to conduct discussions in a good faith attempt to reach consensus on proposed regulatory language. Collectively, the Committee is a diverse group that has indicated interest and commitment to substantive dialogue and engagement with the Agency.

### Upcoming Public Events

N/A

### Last Week Highlights

**Working Guidance on EPA’s TSCA Section 8(a) Information Gathering Rule on Nanomaterials in Commerce.** On Monday, August 14, OCSPP/OPPT published general guidance to assist in complying with EPA’s TSCA Section 8(a) Information Gathering Rule on Nanomaterials in Commerce. This guidance provides answers to questions the Agency received from manufacturers (including importers) and processors of certain substances when they are manufactured or processed at the nanoscale, as described in the final Nanotechnology Reporting and Recordkeeping Rule issued January 12, 2017. The final regulation requires one-time reporting and recordkeeping of existing exposure and health and safety information on nanoscale substances that are made from chemicals on the TSCA inventory. Draft guidance was available for a 30-day public comment period following publication in the Federal Register in May 2017. The working guidance is available at: [ [HYPERLINK "https://www.epa.gov/sites/production/files/2017-08/documents/august\\_2017guidance.8-7-2017\\_002.pdf"](https://www.epa.gov/sites/production/files/2017-08/documents/august_2017guidance.8-7-2017_002.pdf) ].

**Adoption of 2017 North American Industry Classification System (NAICS) Codes for TRI Reporting.** On Thursday, August 17, the EPA published a direct final action to update the NAICS codes that are currently used to classify facilities subject to reporting under Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). Facilities meeting these Toxics Release Inventory (TRI) reporting requirements will be required to use 2017 NAICS codes on TRI reporting forms, beginning with reporting forms that are due on July 1, 2018 (covering releases and other waste management activities at facilities for the 2017 calendar year). The direct final rule is available at: [ HYPERLINK "<https://www.gpo.gov/fdsys/pkg/FR-2017-08-17/pdf/2017-17413.pdf>" ].

**Chemical Data Reporting (CDR) Inorganic Byproducts Meeting Negotiated Rulemaking Committee.** On Wednesday and Thursday, August 16-17, 2017, the CDR Inorganic Byproducts Negotiated Rulemaking Committee (Committee) met to approve the updated Operating Agreement and to discuss approaches (and components of approaches) that have a potential for consensus. The Committee was established under the Negotiated Rulemaking Act (NRA) as indicated in a Federal Register notice of December 15, 2016, and required by section 8(a)(6) of the Toxic Substances Control Act (TSCA), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act (Lautenberg Act). For more information, see: [ HYPERLINK "<https://www.epa.gov/chemical-data-reporting/agenda-august-16-17-2017-chemical-data-reporting-cdr-inorganic-byproducts>" ].

**OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE****Hot Issues**

None.

**Upcoming Public Events**

None.

**Upcoming Major Decisions**

None.

**Last Week's Highlights**

**Decision on Summary Judgment Motions in Clean Water Act Case:** On Monday, August 14<sup>th</sup>, a federal district court in West Virginia ruled on the parties' cross motions for summary judgment in *Ron Foster, et al. v. EPA*. The Foster matter involves a challenge under the Administrative Procedure Act to a Clean Water Act administrative compliance order (ACO) issued by EPA in January 2012 alleging discharges of dredged and/or fill material to four streams at a commercial development site in West Virginia. The Foster plaintiffs also asserted that EPA violated their procedural due process rights by failing to hold an administrative hearing prior to issuing the ACO, and their First Amendment rights by initiating enforcement and taking other actions in retaliation for a campaign contribution. EPA denied those allegations and counterclaimed for the underlying Clean Water Act violations associated with the unauthorized discharges.

The district court granted EPA's motion for summary judgment with respect to the Foster plaintiffs' procedural due process claim, finding there was no proof the ACO denied the plaintiffs of a protected property interest, and their First Amendment retaliation claim, finding causation was not proven. In reviewing the ACO on the administrative record, the district court upheld the reasonableness of the order as to one of the streams; but granted the Foster plaintiffs' motion for summary judgment on the other three streams. The court found a dispute as to material facts existed on the counterclaim, so denied summary judgment. The trial on the counterclaim began on Monday, August 14<sup>th</sup>.

**Clean Air Act Settlement:** On August 14<sup>th</sup>, the United States lodged a consent decree in the District of Connecticut settling Clean Air Act claims with the City of Waterbury, Connecticut and Synagro Northeast LLC. Under the terms of the settlement, the Waterbury and Synagro have agreed to: install mercury air pollution controls on a sewage sludge incineration (SSI) unit; take actions to minimize excess mercury emissions from the unit pending installation of the controls; and pay a penalty.

The SSI unit, which processes sewage waste from the city and more than 30 surrounding communities, is owned by Waterbury and operated by Synagro. Waterbury and Synagro approached EPA Region 1 in December 2015 to report that they could not timely comply with the mercury emission limit applicable to existing SSI units. They volunteered to enter into settlement negotiations and the parties have been negotiating a resolution since that time. Connecticut has no delegated authority to implement and enforce the applicable regulation, and therefore did not participate in the settlement. However, the Connecticut Department of Energy and Environmental Protection supported the negotiations and the resulting consent decree. A notice of lodging of the consent decree will be published in the Federal Register in the next 3 to 5 days. Publication of the notice will start a thirty-day period for public comment on the consent decree.

**Puerto Rican Construction Company Sentenced for Criminal Violations of the Clean Air Act/CERCLA:** On August 16<sup>th</sup>, Aireko Construction Company was sentenced in Puerto Rico Federal District Court to pay a fine of \$1.5 million dollars and serve three years of probation for violating the

federal Clean Air Act and CERCLA (four felony CAA NESHAP violations and one felony CERCLA violation). As part of the plea agreement, Aireko was also ordered to pay \$172,020 to cover a baseline medical examination and follow up medical examination for victims exposed to asbestos fibers in the aftermath of the illegal activity.

On May 14, 2012, EPA received a call from a citizen who worked at the North Tower of the Minillas Government Complex in Puerto Rico, reporting an improper removal of asbestos containing materials during renovation activities. An inspection revealed dry ACM throughout the building, including the elevators, stairs and the outside space used for garbage disposal, with the air conditioning system remaining on during the renovation. EPA closed the building to the public from May 21, 2012 to April 13, 2013. Approximately 450 persons who were exposed to asbestos fibers between the illegal removal and the order to close the building.

**OFFICE OF ADMINISTRATION AND RESOURCES MANAGEMENT****Hot Issues****Security Issue Discussion**

OARM met with representatives from the Office of Inspector General, the Administrator's protection detail, the Federal Protective Service, and the General Services Administration to discuss the law enforcement response to the report of gunshots in the WJC north building on August 9, 2017. The discussion centered around clarifying the actual events of the situation, identifying what went right and what went wrong, how we can work together to address any issues and how we can improve future responses.

**CFC Fundraiser Restriction**

OARM has been notified of very significant changes to the Combined Federal Campaign this year. Most importantly, cash can no longer be collected for the CFC and there is no longer a general undesignated fund; therefore, there can be no more fundraising events. The Office of Personnel Management, which manages the CFC, implemented the changes that were proposed in 2013 and finalized in 2014. These rules became effective in January 2017 and will be applied beginning this year. The campaign is being led by the Office of Water.

**SDD Action: Plains All American Pipeline**

On August 15, 2017, OARM's Suspension and Debarment Official issued notices of suspension to Plains All American Pipeline, L.P., five of its affiliates/subsidiaries (Plains Pipeline, L.P., Plains LPG Services, L.P., Plains Marketing, L.P., Plains Midstream Canada ULC, and Plains Gas Solutions, LLC), and an employee, Mr. James Buchanan. Plains All American Pipeline is a publicly traded company that operates midstream energy infrastructure and provides logistics and storage services for crude oil, natural gas liquids, natural gas, and other energy products through its subsidiaries. The suspension actions are based on an indictment filed in March 2017 in a Superior Court of the State of California alleging criminal misconduct during and after a May 2015 oil spill where approximately 140,000 gallons of crude oil discharged from a pipeline, some of which entered into the Pacific Ocean, near Refugio State Beach in California. The suspensions serve to protect federal procurement and non-procurement programs until completion of the legal proceedings. The entities have been provided with notice of the suspensions and will have an opportunity to respond.

**Employee Viewpoint Survey**

OARM is analyzing the data from the 2017 Employee Viewpoint Survey. Overall EPA's results showed improvements compared with last year's results. Positive results for 20 questions increased by five or more percentage points. Our overall Employee Engagement Index score increased two percent, from 67% to 69% this year and our overall New Inclusion Quotient Index increased six percentage points, from 60% to 66%. Designated EPA employees, managers and supervisors with agency-level access can view the report on the FEVS Online Reporting Tool. OARM anticipates that it will receive the Annual Employee Survey Report/Dashboard report at the end of August. This information is not yet available to the public.

**Upcoming Public Events**

None

**Upcoming Major Decisions**

None



**Last Week's Highlights****SDD Action: TTI**

On August 10, 2017, a joint motion to dismiss with prejudice was filed in the U.S. District Court for the Northern District of Texas to resolve the case Technical Testing International (TTI), et al. v. U.S. Environmental Protection Agency, et al. In June 2016, the EPA debarred TTI and its owners from participating in federal procurement and non-procurement programs due to the company's use of improper laboratory procedures (e.g., falsifying laboratory test results and other improper laboratory practices). Plaintiffs TTI, et al challenged their debarments under the Administrative Procedures Act (APA). The Court denied the plaintiffs' motion for preliminary injunction, agreeing with a Magistrate Judge's findings that plaintiffs failed to meet their burden to show a likelihood of success on the merits of their APA claim and the due process claim. OARM's Suspension and Debarment Program coordinated with the EPA Office of General Counsel and the U.S. Attorney's Office for the Northern District of Texas to defend the EPA actions.

**SDD Action: Ambrose & Johnson**

On August 4, 2017, OARM issued notices of suspension for causes based on state criminal charges filed against two individual defendants (Gerald Ambrose and Daugherty Johnson) allegedly involved in the matter under criminal investigation referred to as the "Flint, MI water crisis." These suspension actions are in addition to the nine suspensions previously issued to other criminal defendants in the ongoing investigation. The Suspension and Debarment Official found an immediate necessity to suspend these respondents from participating in future procurement and non-procurement programs with the federal government. A suspension is a preliminary exclusion from receiving federal contracts and covered transactions to protect the public interest pending completion of legal proceedings.